Social Order

THE URBAN PARISH
A. M. Greeley

September, 1959
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MONTHLY OF NATIONAL JESUIT SOCIAL SCIENCE CENTER

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Vol. 9 No. 7
SEPTEMBER 1959

Published monthly (except July and August) by The Institute of Social Order at 3908 Westminster Place, Saint Louis 8, Mo. Registered at U. S. Patent Office. Entered as second class matter at the post office at Saint Louis, Mo. Contents copyright by Institute of Social Order, 1959. Views expressed herein are not necessarily opinions of The Institute of Social Order. A volume index is published in the December issue. Current contents are indexed in Sociological Abstracts, Public Affairs Information Service, Catholic Periodical Index, Current Sociology, Guide to Catholic Literature.

Subscription rates: $4 a year, $7 for 2 years, $9 for 3 years. Single copy, 40c. Please allow one month for change of address.

Social Action in the American Environment

EDWARD DUFF, S.J.

IT OCCURS TO ME that, as an interested observer, I might offer some general considerations, hoping that they will have some relevance for all the various modalities of the common apostolate represented here. The hope is more secure because I propose to examine some points emphasized in a letter sent last year in the name of Pope Pius XII by Monsignor Dell'Acqua of the Secretariate of State of the Holy See to the two Catholic Social Life Weeks, that of the French language, the other English, held annually in Canada.[1] The NCSAC is, inchoately at least, our American *Semaine Sociale*. Please God, it will grow to the renown of its predecessor "traveling universities" in France, in Italy, in Spain and in Canada. Quite probably, the time will come when the Holy See will be graciously pleased to send official greetings and a letter orienting and illumining our discussions. Until that time, I think that we can profitably examine what is said to our neighbors in geography, culture and the Faith to the north. Their society, not least since the war, has become more and more akin to our own. Some are saying that this is the result of American economic imperialism, a topic SOCIAL ORDER will examine soon. It is undeniable, however, that we share with Canada a common civilization, one characterized by religious pluralism, similar political premises and practically identical social aspirations. This, then, is the justification for offering a sort of marginalia to the Papal Letter to the Canadian Catholic Social Life Weeks of 1958.

It is of concern to the Holy See, according to this Letter, not only that Catholic social teaching be examined and elaborated in its different aspects at such Social Weeks (and we may humbly presume to some extent at our present meeting) but that measures be taken to ensure that this Catholic social doctrine efficaciously penetrate the sectors of society for which it is destined. This ample mandate, mentioned almost in passing, invites realistic consideration of the problems and perplexities of the

1 My text is from *Documentation Catholique*, December 7, 1958, columns 1591, 1592. An English version will be found in the Proceedings obtainable from the Social Action Department of the Canadian Catholic Conference, 447 Sussex Street, Ottawa, Ont.

Invited to address the National Catholic Social Action Conference, the Editor offered these . . . **just a few things.**

social apostolate in the American environment. The mandate has been strikingly up-dated: the papally-approved intention of the Apostleship of Prayer for the month of August asks: "That the social doctrine of the Church be more and more effectively promoted throughout the world."

A scrutiny of the complexities confronting the social apostolate in the United States is not proposed as an exercise of disenchantment; the members of the NCSAC wear the scars of too many lost battles to lose heart because of any seeming strictures I might offer. On the other hand, an analysis of our situation may serve to cauterize the easy euphoria engendered sometimes at meetings such as ours; it may dampen the tendency to think that we have more answers than we really have; it may, to whatever extent it be necessary, discourage solution by slogans.[2]

I begin, perhaps tediously, by noting the need of clarifying both in our theory and in our personal lives the relationship of the social apostolate to the Faith. This permanent problem of being in the world but not of the world, of being on pilgrimage toward a Heavenly City yet expected to participate in the renewal of the Temporal City, is part of the burden of belief which is not lightened by the incantation of some quotation from Cardinal Suhard. There is in the biblical perspective an inescapable tension between the call of the cross and the service of mankind. The paradox has been resolved in costly personal struggle by each of the saints. To the extent that we are unaware of the existence of this tension, our grasp of the meaning of Christianity is the thinner.

Thus, we are told to pray for our daily bread but we are likewise reminded that man does not live by bread alone. We are assured that Christ will take as done to Him our charity to the least of His little ones but we are likewise cautioned that the poor we will always have with us and that we must not let our preoccupation with the poor serve as an excuse for begrudging Him our personal devotion and attention. We are solemnly told that those who thirst after justice are blessed but we discover, disconcertingly perhaps, that the workman of the eleventh hour is given the same reward as those who have borne the heat of the day and that Dismas, an adventurer in injustice, wins heaven within the hour. The wisdom of the children of this world is recommended to us while we are warned that we must not conform to the world, indeed we are to be constantly mindful that we have not here a lasting city. We are commanded to render to Caesar the things that are Caesar's and are expected at the peril of our souls to sort out all temporal items and issues into their proper category.

Here we have not merely a preliminary but an abiding problem associated with the social apostolate. By-passing it is to be unaware of the eschatalogical aspect of the Faith and to risk, after the fashion of the earnest exponents of the Social Gospel of an earlier generation of American Protestantism, making re-

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2 I confess my bafflement upon encountering a mandate prefacing this year's *Inquiry Program* of the Christian Family Movement: ". . . the lay apostles the whole world over, wherever there is technical and industrial activity, are committed to one important task, that of giving the world of industry a Christian form and structure." I doubt whether the CFM inquirers would claim to have worked out types of Christian forms and structures for the American world of industry.

ligion instrumental to the amelioration of society.[3] We work, all of us, to advance the Kingdom of Christ, a Kingdom which is not of this world.

The cautions suggested in the previous paragraphs may strike many as being of speculative concern only. Americans are notably free of *angoisse* whether metaphysical or manufactured. We boast that we tackle practical problems in a practical fashion. We have, we assert, a body of Catholic social teaching which we apply to the concrete circumstances of contemporary American life, our consciences unblighted by the *malaise* of either *intégrisme* or *progressisme*.

Such an assertion should be more than an assumption.

Let us concede that we have from moral theology insights providing clear directives in intra-personal relationships. It is not clear to me that we have ever needed more elaborate resources for our basic attitudes in interracial work, for example, or for our guidance in family living. We have, moreover, from the gospels and from the Fathers of the Church an inescapable insistence on the equal dignity of all men in a common destiny for whose attainment the goods of the earth were created. Thus we know that class conflict is essentially without logic and that the primary function of any economy is to provide for the basic wants of all, beginning with the most disadvantaged. This general Christian tradition presents axial truths, supplying a clear orientation that will focus attitudes in the direction of social justice. The question arises, however, whether we have at hand a developed body of social doctrine shaped for the analysis and the reform of contemporary American institutions.[4] For it will not do to rest content with the positions worked out for different historical situations, for another set of economic and social institutions, for another culture. We have the warning of R. H. Tawney, specialist in economic history. Speaking of the 15th century, Professor Tawney declared: "The social

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3 President Charles W. Eliot of Harvard gave a memorable address to the University Divinity School in 1909, entitled "The Religion of the Future." Eliot argued that religion should concern itself with the needs of the present, with public baths, playgrounds, wider streets and better dwellings. Such simpleminded earnestness recalls T. S. Eliot's lines:

> The last temptation is the greatest treason,
> To do the right thing for the wrong reason.

The next time a President of Harvard addressed the Divinity School was in 1953. Adverting to his famous predecessor's views, Nathan Pusey remarked: "This faith will no longer do. . . . It is leadership in religious knowledge and even more in religious experience of which we now have a most gaping need." The Pusey address was entitled "A Religion for Now" and was printed in *Harper's*, December, 1953. Cf. p.20.

4 An observation of Reinhold Niebuhr will explain the doubt as it certainly underscores the difficulty: "The lack of a clear spiritual witness to the truth in Christ is aggravated by certain modern developments, among them the increasing complexity of moral problems and the increasing dominance of the group or collective over the life of the individual. The complexity of ethical problems makes an evangelical impulse to seek the good of the neighbor subordinate to the complicated questions about which of our neighbors has first claim upon us or what technical means are best suited to fulfill their need. The Enlightenment was wrong in expecting virtue to flow inevitably from rational enlightenment. But that does not change the fact that religiously inspired good will, without intelligent analysis of the factors in a moral situation and of the proper means to gain desirable ends, is unavailing." *Christian Century*, LXX (July 22, 1953), p. 841. Moral Re-Armament is an egregious example of the *simpliste* solution. Catholics might also be told to avoid its contamination because of its anti-intellectual approach.

teaching of the Church had ceased to count because the Church itself had ceased to think."[5]

It is not suggested here that we Catholics have no premises from which to take positions in the effort of social reform. What is being asked is whether there is as much content, specifically applicable to the American scene, in Catholic social doctrine as our language sometimes suggests. It is simultaneously hinted that we have lived off positions packaged elsewhere and have failed to make the contribution to intellectual life of the universal Church which our American experience warrants.

To the extent that this is true, we can find various explanations, beginning with our prompt docility to anything "Catholic." Having in this country no organized political tradition hostile to Christian values and to the hierarchical Church, we have not been forced to elaborate a counter social policy. For this we are thankful to God, to be sure. The essentials of the Bishops' 1919 Program having become—in answer to our national aspirations—part of our public law, we seem, as a group, left without anything very specific that we want by way of concrete, institutional social reform except perhaps a wistful notion that labor and management be brought together in quasi-permanent consultation.

It is quite conceivable that the vagueness, even the absence, of concrete, constructive suggestions for the reform of the American economy is due to its comparative success. I ask indulgence for a fairly lengthy quotation from Sumner H. Slichter, scarcely a propagandist for the National Association of Manufacturers, which appears in the current quarterly of the American Academy of Arts and Sciences:

> The American economy is a good economy. It has three principal economic characteristics that make it good: it is highly productive; it distributes the fruit of production broadly; and it provides a rather stable demand for goods.
>
> No other economy in the world comes close to matching the American economy in productivity. Output per capita in the United States is roughly one-third greater than in Canada, twice as large as in Britain, Australia or Sweden and about three times as large as in France.
>
> The high productivity of the economy is reflected in the growth of education, the growth of home ownership, the growth of leisure and the growth of semi-luxury or luxury goods. The proportion of persons fourteen to seventeen years of age enrolled in high schools or colleges has increased from 6.7 per cent in 1889-1890 to 88 per cent in 1956. Three-fifths of the dwelling units in the United States in 1956 were occupied by the owners. In 1940 the proportion was 43.6 per cent. The forty-hour week is a standard work week in most industries outside agriculture. The number of weeks of vacation taken by workers is estimated to have doubled between 1946 and 1956. About nine out of ten homes have electric washers; more than nine out of ten, electric refrigerators; three out of five, vacuum cleaners, nearly nine out of ten, television sets; and three out of four families own automobiles.[6]

It is not argued that iceboxes are channels of grace or that the prevalence of automobiles is evidence of the superior

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[5] *Religion and the Rise of Capitalism.* Harcourt Brace, New York, 1926. p. 185. "In an age of impersonal finance, world-markets and a capitalist organization of industry, its [The Church's] traditional social doctrines had no specific to offer and were merely repeated when, in order to be effective, they should have been thought out again from the beginning and formulated in new and living terms." *Ibid.*, p. 184.

[6] *Daedalus*, 83 (Summer, 1959), p. 499.

state of our society. By definition, however, an economy is an arrangement of material goods. In the face of the tolerable order of justice achieved in our society[7], and this in an environment of political freedom, the prophet of a reform of our basic economic institutions in the name of Catholic social teaching should produce stronger credentials as an analyst, not to say as a creative revolutionary, than any I have yet encountered.

Problems of scale

It might be in the interest of frankness to admit that the American economic system is rather a new thing for Catholic social thought to contemplate. Its sheer size presents problems of scale not hitherto encountered. The gross sales of General Motors for 1955, for example, were one-third larger than the national budget of France for the same year and almost one-fourth larger than the budget of the United Kingdom. And this prodigious mechanism of manufacturing and distribution rolls along with government intervention more limited than elsewhere in the world. We can even, it appears, afford the luxury of a steel strike at a time when the President declares that we may become involved in a shooting war over Berlin. For the prophet of the reform of our economic institutions must not forget that the United States is also paying colossal sums each year for arms to defend ourselves and the free world and at the same time finding funds for underdeveloped countries as an exercise in international solidarity and charity.

As for social doctrine, then, we have some rather broad principles valuable especially for forming proper attitudes; their merit is unimpugnable but their relevance is not always clear. Teaching that the family wage is due in commutative justice to every male worker, married or celibate (since every man is either actually or potentially the head of a family with the exclusive responsibility to provide it with decent and frugal comfort), would appear to ignore the modern revolution in employment. Or do we—on the demand of Catholic social teaching—seriously envisage replacing all our typists, waitresses, telephone operators, airline hostesses, etc., with men?

We must not, I would suggest, exaggerate the efficacy of our broad principles. Certainly, a primary national problem is inflation. Its effect, together with mounting taxes, has been such as to make it necessary for the average worker since 1942 to obtain wage increases totaling 87 per cent, if he is

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7 This sanguine judgment is disputed by Michael Harrington in an article "Our Fifty Million Poor" in the July issue of *Commentary*. Mr. Harrington argues that: "At least 40 million, perhaps closer to 60 million people, are living at or below the level . . . which the WPA provided to unmarried workers during the depression period of the 1930's." The economically disadvantaged turn out to be the same groups listed by Victor Ferkiss in these pages last September: the aged, the unskilled, the migratory worker, the nonwhite minorities and those living in depressed areas. Professor Ferkiss read the evidence as constituting a social rather than an economic problem. Protests like those of Mr. Harrington are needed to jar complacency; his single solution of "comprehensive Federal action" cannot be endorsed.

to stay even in the economic struggle. Concretely, a man with a wife and two children who earned $3,000 17 years ago will have to earn $5,613 this year if he hopes to be as well off.[8] The implication of all this for people living on fixed incomes is evident. We all deplore the situation (to a larger or lesser degree, depending on our political preferences) but any unanimity of opinion, based on Catholic social doctrine, as to the primary cause much less the modalities of controlling inflation has escaped my attention. Indeed, I have noted no firm judgment, proceeding from Catholic social doctrine, on the proper form national legislation for labor-management relations might take, a field where historically our interest has been greatest. Our solution to the ever mounting crop surplus seems to call for a continuance in some form of government subsidies plus a program of giving away food that is too costly to store, a policy designed to maintain economically unviable farms and—whatever its merit in the order of charity—to alienate our allies by destroying their markets in a process less politely known as dumping.

I am mindful of the necessarily ample scope for prudence in choosing between possible courses of action in the temporal order and in devising programs of practical action.[9] My simple argument is that we do not have today as developed a body of Catholic social teaching, concretely applicable to the American scene, as the Letter to the Canadian Social Life Weeks so clearly desires.

And yet our task becomes more imposing still.

The first point emphasized in the same Letter, sent in the name of Pope Pius XII, is "a social formation through a program of long years of study required of anyone as a preparation to fulfill his responsibilities serving society." Granted that the theme of the 1958 Social Life Weeks was leadership, the language of the letter is only a repetition of Pope Pius' address to the World Congress of the Laity. The indispensable requirements for effective action in society, His Holiness stated, are: first, a sound spiritual formation and, secondly, expert or technical knowledge.

There are in this audience very many veterans whose years of experience in their chosen field of social action have given them outstanding competence. There are in our colleges and universities young professors of the social disciplines of genuine talent. Indeed, one of the functions of SOCIAL ORDER is to discover them and to give them a platform.

This is not the place to replay the record bemoaning the paucity of Catho-

8 Estimate of the Tax Foundation, Inc., as reported in the *New York Times*, June 22, 1959. The Consumer Price index moved from 67.0 in January, 1942 to 123.9 in April, 1959 (1947-49=100), an increase of 84 per cent.

9 An example of the ironic complexities of social reform is offered by Charles Abrams, former New York State Rent Commissioner: "We tore down the slums—but intensified overcrowding and its unhealthy by-products. We built some housing for the middle-class—but, as costs continued going up, we simply lowered the standards so that many houses were worse than those built in the 19th century. We increased the proportion of home-ownership—but spiraled the price and the debt." *Cited* in Harrington, p. 25.

lic experts. It is the place to find encouragement in the growing realization that in social action work enthusiasm cannot replace brains. It is the place, moreover, to point out to the young the price of devotion. When Professor Robert Oppenheimer's loyalty was being investigated, he released to the press a lengthy intellectual autobiography. In it he explained his political innocence by his preoccupation with the evolving frontiers of nuclear physics. It is my memory that he asserts that, as a student and as a young professor, for some 15 years he had not read a newspaper nor listened to the radio nor seen a movie. Accurate knowledge of anything, not least of our own neighborhood, demands hard, persistent and individual attention. Editorializing is no substitute for analysis.

Policy of Catholic publishers

Whether our educational institutions, including our seminaries, could be doing more to develop people with "expert or technical knowledge" (as the Holy Father urged), I leave to the judgment of my betters. I would like at this point, however, explicitly to indict our Catholic publishers for their unimaginative policy and at the same time, perhaps, the American Catholic reading public for being content with cheaply-bought translations. I say flatly that the activities, spiritual and social, of Father Clement Kern's Holy Trinity parish in Detroit's Corktown are immensely more significant, at least for Americans, than those of the much-publicized Sacré Coeur of Abbe Michonneau at Colombes in the Parisian *banlieu*. The publishers' excuse that they cannot find American Catholic writers is a lazy, worse, a false one. The fact is that the lists of all the Catholic publishing houses in this country do not in the course of a year contain a handful of books apposite for reviewing in SOCIAL ORDER. Each year our national Catholic organizations adjourn their conventions, having taken position on a whole series of national and international issues of social import: human rights, foreign aid, more decent housing, the effective protection of peace, etc. Our Catholic publishers have seemingly not been interested in supplying resource material on these problems as viewed in a Christian perspective.

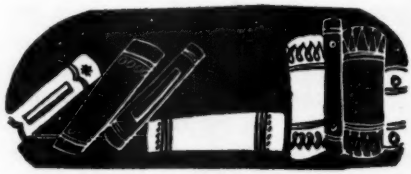
Our social action apostolate in the American environment faces difficulties additional to an absence of adequate empirical analysis to structure our social teaching as well as a shortage of competent, trained leaders. Social action in our day has taken on an institutional character.

Now for reasons that can be left to the sociologist, Catholics in this country are only beginning to work routinely with other groups. We are in fact conspicuously absent from the staffs of foundations, of policy-planning organizations, of research groups. By and large we are not much sought out to sign petitions to halt nuclear tests or to win passports for correspondents to visit China.[10] And yet it is essential that we learn to collaborate with others and this for the simple reason that we are a minority. By ourselves we have achieved an impressive total of charitable works — orphanages, asylums for the aged,

[10]Perhaps this is small loss. George Bidault once mordantly remarked that an intellectual is someone who signs petitions drawn up by another intellectual. At the present rate, he continued, it is becoming a full time occupation in France.

youth guidance centers, etc. But since the goals of social action are larger than the immediate relief of personal distress, our field of activity is other than that of the Conferences of Saint Vincent de Paul, eminently praiseworthy though such work be. We are committed to the reform of institutions, to changing the patterns of behavior and the conditions of existence that lessen the full measure of justice available to our fellow men.

As we collaborate with others for the rebuilding and refurbishing of the Temporal City—honestly, frankly and without thought of partisan advantage—we must not lose sight of the specific vision that is ours as Catholics. There are changes occurring in American society, disquieting changes. We will not, to be sure, defeat them simply by decrying them. Nor do we adequately explain them, it seems to me, by invoking the factor of "pluralism." We are, in fact and by God's permissive will (at least) a nation of differing religious affiliations, inheritors of disparate cultural traditions. The fact supplies no logical basis, much less justification, for the diminishing moral consensus among Americans. Am I being alarmist in noting that the nation which outlawed polygamy as socially pernicious has now announced, through the majority opinion of its Supreme Court, that adultery is a debatable idea, that if you like that sort of thing that is the sort of thing that you like? Have we been a little naive in protesting that we are all for pluralism—meaning, for us, the coexistence of creeds and a respect for different cultural traditions—when our partners in the dialogue mean by pluralism a relativism that mocks the possibility of a Public Philosophy? Pluralism may be an exciting intellectual game to play with square ping-pong balls in Lindy's resturant but are we to come out of the ghetto to tell Roland at Roncevalles that he was wrong: that the pagans are right. *Tantus labor non sit cassus.* The pathetic hope, expressed by Jacapone, the author of the *Dies Irae,* is voiced anew at the funeral of every Catholic.



Lest this caution on the loss of our specific vision as Christians in efforts to collaborate with others be thought a private vagary, a petulance over the popularity of pluralism as a phrase, I invoke the authority of one who was tireless in his exhortations for common efforts for peace and justice, Pope Pius XII. "Intervention in the world to maintain divine order is a right and a duty which belongs essentially to a Christian's responsibility," His Holiness declared in his 1957 Christmas Message. With impressive urgency, he asserted that the Christian ought

> to reckon it a disgrace to allow himself to be surpassed by the enemies of God in energy of spirit, of work and initiative, joined to a spirit of sacrifice. It is no secluded territory nor restricted administration which is being entrusted to the activity of the Christian. No field of life, no institution, no exercise of power can be forbidden to those who cooperate with God to maintain divine order and harmony in the world.[11]

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[11] *Catholic Mind,* LVI (March-April, 1958), p. 176.

The Message returned to a familiar remonstrance: that Catholics be spiritually and technically trained for what they are proposing to do. "Otherwise they will bring no positive assistance, still less the precious gift of eternal truth, to the common cause, with undeniable hurt to Christ's honor and to their own souls." There followed a warning which I have thought worth including in our considerations:

> Christian action cannot, least of all today, surrender its peculiar claim and character because someone sees in the human association of the present time a so-called pluralistic society which is cut off from attitudes of mind which oppose it, set permanently in its respective positions and impatient of any collaboration which does not develop on an exclusively "human" plane. If this term "human" means, as it seems to, agnosticism with regard to religion and the true values in life, every invitation to collaboration would be equivalent to a request to surrender, a request to which the Christian cannot consent.[12]

It is profitable to be aware of the general direction of these changes in American society. Ours is a society that less and less encourages individual initiative and responsibility. The modern American is increasingly being insulated from the challenges that provision for his own and his family once forced upon the individual. It is my memory that much of this effort to assure economic security for all has had active Catholic support. Yet we should not be unaware that many of the conflicts which the individual had traditionally to face are being resolved for him by government, the corporation and the labor union. The resulting danger is that a man's ideal may become one of conformity to a system rather than the exercise of individual initiative and responsibility, a personal effort which forces the individual to grow and to develop himself.[13]

Corporation as parent

It was my argument in the article "Property in the American Environment" in our January issue that private property as a personal responsibility and a source of challenge to the individual has been superseded by forms of social organization which undertake to fulfill the wants and the needs that personal exploitation of private property once supplied. A man now commonly works for the corporation which plays, in many ways, the role of parent to him. His property, if he has any outside his home and car and television set, consists of stock certificates and of pension claims upon large corporations. A man now lays up his store for the future in the form of contracts which embody his expectations of care for himself and his family when he can no longer work. I noted further that this situation is accepted unquestioningly as a good thing by the vast majority of young

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[12] *Ibid.*, p. 177.

[13] It is not my purpose to provoke a discussion on the Welfare State but to underscore a tendency. I do not for a minute believe that our situation rivals that in Sweden where, I was told, a group of pious Lutheran ladies had to leave for Germany to find scope for practicing the corporal works of mercy. Our kind of problems emerges in this quote from a Fund for the Republic report: "In 1957, 148 million people watched a network television program during a typical week. More than four-fifths of American families own television sets. The average family watches for approximately 42 hours a week and it has been estimated that the typical American spends slightly more time looking at his set (35 hours and 49 minutes) in a given week than he does in working." Charles Winick, *Taste and the Censor in Television*, p. 6.

Catholic couples who are making tangible bets on the future, courageously raising families in such numbers as to create embarrassing problems for our parochial school systems.

From the studies of Father John L. Thomas, S.J., the conclusion emerges that the same tendencies are making themselves felt upon the family. He describes their effect in general as removing the need that men and women once had for the self-denial and the self-discipline resulting from long range economic planning. He points out that young people today are buying home appliances and furnishings which shock their parents of an earlier generation who see the lives of their children financed by debt obligations. He notes also that the same tendencies, a lack of providence and long term planning, accompanied by self-denial, carry over into the sexual sphere. The results are betrayals of the Christian family ideal and not least marriages at such an early age that many of the vital energies that must go into making a strong society are being sapped.

The 1958 Letter to the Canadian Catholic Social Life Weeks emphasized as a second point that the positions taken by a social action leader must be intimately connected with his religious convictions and with his personal moral behavior. Christian judgments, it was pointed out, must be brought to bear on concrete problems which are frequently very complex; a firm line of action must be maintained despite difficulties and incomprehension; personal sacrifices, often difficult ones, must be accepted. How, asks the Letter

> is this kind of an attitude possible, how can it be maintained, without a profound spiritual life, penetrating with its light and energy every sector of our apostolic activity? This is why it would be futile to expect proper leadership in social action without insisting at the same time on the indispensable sources which the sons of the Church must draw on to be faithful to their duty.

Need it be made explicit at this point that the social action leadership now being discussed is specifically and, for practical purposes, almost inevitably that of the laity. That this is properly, even inevitably, so is being proclaimed officially in ever clearer tones. Thus, the Very Reverend Msgr. George G. Higgins, Director, Social Action Department, National Catholic Welfare Conference:

> Strictly speaking social reconstruction is directly the responsibility of the layman and only indirectly the responsibility of the priest.
>
> The laity are called in a peculiar way to take the initiative in social reforms. Authority does not and cannot initiate such reforms. It is the function of authority to supervise and regulate, to point out excesses and dangers and to encourage the downtrodden to hope and to struggle for a better day.
>
> Social reforms, if they are to be effective and lasting, must come from below: they cannot be imposed from above. It is the vocation of the laity to take this initiative, with the aid and the blessing of God.[14]

But I can outreach Msgr. Higgins as an authority on this point by quoting an archbishop quoting another archbishop. The Most Reverend Leo Binz of Dubuque in a sermon to the Iowa State Convention of the Knights of Columbus this spring declared:

> As the Archbishop of Hartford stated a few years ago: "The lay apostolate is not one in which the people help the priest do the priest's work. On the contrary, in the

[14] *Catholic Charities Review*, XLIII (June, 1959), p. 2.

real lay apostolate the priest helps the layman do the layman's work. Only the layman has competence in the social apostolate. It is only the layman and not the priest who can bring the social teachings of the Church into his union, into the factory, into the political arena. It is only through the layman that these areas can be truly Christianized."

So experienced a spiritual shepherd as Archbishop Binz knows that the task of making "Christ live in the world again" is not a simple one. He did not think that " a ready answer is at hand." Yet his Excellency was convinced that "the Church in America, thank God, has worked out some of the answers to this problem from its very beginning."

Astringency of vision

Through different formulas, specialized Catholic Action groups, Third Orders, Retreat Leagues, the Legion of Mary, Professional Sodalities, etc., there is in this country a discernible beginning of the systematic spiritual formation of the laity. All of these efforts are aimed at training an elite, one which will take God and His expectations of us seriously. To be salt for a soft generation calls for an astringency of vision and of purpose that is not native to the American character. "Togetherness" can be perilous when it involves an abandonment of our transcendent Christian vocation. And yet it is a permanent temptation. The Chosen People, as we read in the Book of Samuel, wanted a king and the reason they gave for repudiating the kingship of God has a terrible immediacy for all times: "We want to be like all the other nations." The greatest impediment to the conversion of England, Monsignor Ronald Knox declared (and he might have added of the whole world) was the appalling averageness of the average Catholic.[15] For what scandalizes the world is that we are like all the rest, taken in, even fascinated by the prestige and the power of the world. Gustave Corcao, a Brazilian Catholic has noted:

> It is not that our lives are marked by flagrant scandal or that we are more vicious or selfish than others. It is not that we are less scrupulous than the other fellow. The greatest scandal of our times is that we are like everyone else. In its confused and disorderly indictment the world accuses us of this strange collective, nameless sin. The world accuses us of worldliness.[16]

It comes to this, then, that in the temporal task we are expected to dirty our hands[17] but our eyes must not wander from Christ whom we follow falteringly and hopefully. In our following we must not wait for too many signals. Clear responsibilities have been assigned to the laity for the remaking of the world; a field of action has been officially recognized, one other than

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[15] The attitude is illustrated by a frightening comment from a scientific study: "Religious outlooks on international problems and world affairs have tended to be a product of cultural conditioning, class affiliation and traditional patriotism, combined with a rationalizing of the personal prejudices and biases of the individual." I have lost my reference to the source.

[16] "Ce Que Le Monde Attend de L'Eglise" *Informations Catholiques Internationales,* October, 1957, p. 4. Professor Corçao continues: "Even if it has not read the Epistle to the Galatians nor studied the liturgy of the Feast of the Finding of the Holy Cross, the world knows confusedly that we are committed to follow the bloody footsteps of a God who endured the Passion for me; it knows that our flag is a sign of contradiction; it knows that we are scheduled to be counted as fools; and, knowing that, it is surprised not that we are guilty of this or that humiliating sin or of some evil which is the consequence of weakness but that we live by the same standards as does the world and that we glory in its prestige."

[17] One is reminded of the bon mot of Péguy: "Ils ont les mains pures, mais ils n'ont pas de mains."

that of the clergy. Such a definition of roles would seem a clear challenge to the apostolic imagination of the lay leaders in social action.

The problem of our times, it has been said, is a fear of personal decision, a tendency to act only on order. Saint Paul reminded us that we are no longer children. In the opinion of Pius XII the danger of the hour is the "weariness of the good," the distaste of many Christians to assume their responsibilities in the temporal order.[18] F. X. Arnold, German expert in pastoral theology, put the situation strongly:

> The Church has no desire to be—nor must it be—a society dominated by paper work, office routine, ceremony and bureaucracy nor a mass of docile, servile schoolchildren, uneasy folk who whisper and wait. The Church is a group of free, courageous, bold men. . . . Père Congar hopes that the action of the laity may lead to a veritable springtime in the life of the Church. To that end, the Christian ideal must include not only obedience but also initiative, courage, boldness. The clergy must have a genuine respect for the laity and for the fact of the temporal order. Men of the Church must be aware of the problems of our times. As Père Congar notes, the Church must be conscious of being an institution founded from above, to be sure, but one unwearyingly to be realized here below in establishing in the world a community of believers.[19]

It may be profitable here to call to mind that in totalitarian lands today the laity and the laity alone can man the besieged outposts of family life and even the memory of a humane civilization. Catholic organizations have been surpressed, the clergy imprisoned, agents of the atheistic regime placed in the chanceries of the bishops. The tough resistence of the laity, fostering as best they can human values, stubbornly demonstrating (in Chesterton's thought) that only Christians can save even pagan virtues, should inspire us to exploit the opportunities that freedom makes available in this land. We have a specific mandate given to us by Pius XII in his encyclical "Progress and Problems of the American Church."

> What a proud vaunt it will be for the American people, by nature inclined to grandiose undertakings and to liberality, if they untie the knotty and difficult social question by following the sure paths illumed by the light of the gospel and thus lay the basis for a happier age![20]

Effective Catholic social action in the American environment is surely no simple task. That is undoubtedly why the Letter to the Canadian Catholic Social Life Weeks last year ended by urging "coordinated and prolonged efforts" and "new forms of social action adapted to the country." The Letter observed: "The reform of institutions and of morals is a long range work and can only be achieved by united effort."

But it is a work Christ's Church expects of us here and now. How shall we find the eagerness, the courage and the joy of answering that summons to make brighter the temporal refraction of the truths of the gospel? We shall find it the fresher becomes ours, the realization that possessed Sir Thomas More, saint and layman, as he awaited the execution he knew to be inevitable: "The sayings of Our Savior Jesus Christ were not a poet's fable nor a harper's song but the very holy words of Almighty God Himself."

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[18]Point of information: have more parochial than public schools below the Mason-Dixon line been desegregated since 1954?

[19]"La Mission de Laïcs," *Informations Catholiques Internationales*, April 15, 1957, pp. 4 and 28.

[20]*Catholic Mind*, XXXVII (November 22, 1939), p. 938.

The Supreme Court 1958–1959

RICHARD J. CHILDRESS
& JOHN E. DUNSFORD

DURING RECENT terms the Supreme Court has weathered a storm of criticism by sitting in the eye of the hurricane, but by the end of the 1958-1959 term the storm appeared to be subsiding. The reason advanced in some quarters for the relative calm around the judicial heads was the claimed emergence of a new and controlling coalition of justices exercising greater judicial self-restraint and inclining toward a more conservative position. The implication, sired perhaps by the hope, was that the justices were appeasing their critics by recanting prior decisions.

Shortly before the term began the Court was criticized by a resolution of the Conference of [State] Chief Justices. The Conference resolution of August 23, 1958, approved a report in which it was concluded:

> It has long been an American boast that we have a government of laws and not of men. We believe that any study of recent Supreme Court decisions will raise at least considerable doubt as to the validity of that boast. We find first that in constitutional cases unanimous decisions are comparative rarities and that multiple opinions, concurring or dissenting, are common occurrences.

There were dissents from the resolution of the state justices, and the report failed to explain satisfactorily how to avoid a government of men and reestablish a government of laws. However, the clear implication was that the result could be accomplished by leaving the decisions to the men who sit on the high courts of the various states. The judges did not mention the 1953 segregation decision by name, but one scholar has commented that "it flashed across the screen with subliminal perception."

The Justices were subjected to criticism again when midway through the term the House of Delegates of the American Bar Association passed a resolution on February 24, 1959, which implied criticism of recent Supreme Court decisions. This A.B.A. criticism was tempered by its resolution to "disapprove proposals to limit any jurisdiction vested in the United States Supreme Court." The resolution was passed in response to a report of the Association's Special Committee on Communist Tactics, Strategy and Objectives which stated: "many cases have been decided in such a manner as to encourage an increase in Communist activities in the United States." The

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report continued its indictment of the Court by saying

> our internal security has been weakened by technicalities raised in judicial decisions which too frequently in the public mind have had the effect of putting on trial the machinery of the judicial process and freeing the subversive to go forth and further undermine our nation.

Against this report The *New York Times* editorialized: "One man's technicality may be another man's property, liberty or life," and Ross L. Malone, the president of the A.B.A., said: "I think it is most inappropriate for a body of lawyers to link the Court directly, or by innuendo, with aiding Communism . . . which the report did in the popular mind." Later, testifing before the Senate Internal Security Subcommittee, Malone denied that the A.B.A. resolutions constituted a censure of the Court.

Whether, as alleged, such stinging criticism has affected the decisions of the Court is difficult to discuss, since there are many subtle factors that influence a judge's opinion. Presumably the judges could be influenced by reasonable criticism which demonstrated some error on their part, but most of the recent criticism has not been of this character. Moreover, even the more intelligent criticism is likely to proceed from a legal philosophy at variance with that of the majority of the Court.

A review of the highpoints of the last term adds a measure of leaven to any conclusion that the Court has reversed itself in a fashion similar to the 1937 reaction to the Roosevelt court-packing plan. It should be pointed out that a few days after the more exaggerated claims of judicial docility gained prominence, the Court, with only Justice Clark dissenting, wiped out the extensive security clearance program which the Department of Defense has been applying to employees of private industry performing contracts for the government. The ground for the decision in *Greene* v. *McElroy* (360 U.S. 474) was that procedures of the program, based as they were on the use of confidential informants and the denial of traditional judicial safeguards, were not authorized by any presently existing law. The Court did not reach the constitutional issue.

Making the routine but imperative qualification that the nature of the Court's work prevents any stamping of a "theme" on a given session, it is still fair to begin any review by noting a significant recurrence of one basic problem during the past term. Briefly, it is what Justice Brennan called "the impact of the governmental investigatory function" on the freedom of the individual.

The quest for facts

In modern times, the range of information needed by governments is vast, exceeded only by the desire of governmental officials to compile even more data. As the state's area of operation enlarges, its agents seek the facts upon which to base decisions. The greater the regulation and control, the more vital it becomes that one's information is accurate and complete. In the background to this whole development, of course, are the striking advances in technology, the increased problems of security, and the social-science orientation of the times. Against this consuming need for a steady flow of information stand certain claims of the individual to privacy, to freedom of association, speech and belief, and to freedom from harrassment.

During the term the problem of obtaining information from individuals was posed for the Court in a variety of ways, the typical one testing contempt convictions of witnesses who balked at testifying before states' legislative committees, both houses of the United States Congress, a state grand jury, a federal grand jury and a state judicial officer. A search and seizure case found a federal agent seeking facts for prosecution, and a state health officer sought to obtain information by invading a man's home. The subject matter of these conflicts ranged from subversion to sanitation, from narcotics to integration.

A city's method of obtaining information for enforcement of a health code was sustained by a 5-4 decision of the Court in *Frank* v. *Maryland* (359 U. S. 360). A health inspector of Baltimore, trying to determine the source of rats in a neighborhood, demanded entry to look at the basement of a house around which he had found debris, trash and rodent feces. He had no search warrant, but was proceeding under a section of the Baltimore health code which provides:

> Whenever the Commissioner of Health shall have cause to suspect that a nuisance exists in any house, cellar or enclosure, he may demand entry therein in the day time, and if the owner or occupier shall refuse or delay to open the same and admit a free examination, he shall forfeit and pay for every such refusal the sum of Twenty Dollars.

On refusal to grant admission, the owner was arrested and fined. His appeal questioned the validity of the law under the Fourteenth Amendment's due process clause.

Justice Frankfurter's opinion distinguishes the inspection of the home from a search for evidence of a crime. He observed that if conditions exist which are proscribed by the health code, the owner is notified to remedy the condition. "No evidence for criminal prosecution is sought to be seized." He concluded the justification of this measure of official intrusion into the privacy of a man's home by the following comment:

> In light of the long history of this kind of inspection and of modern needs, we cannot say that the carefully circumscribed demand which Maryland here makes on appellant's freedom has deprived him of due process of law.

The four dissenters found the decision diluting the weight of privacy guaranteed by the Fourteenth Amendment, which incorporates as a limitation on the states the search and seizure prohibition of the Fourth Amendment. The dissenting opinion quotes the forceful words of the elder Pitt:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; the roof may shake; the wind may blow through it; the storm may enter, the rain may enter,—but the King of England cannot enter; all his force dares not cross the threshold of the ruined tenement.

The result of the *Frank* case is that the king's health officers are now permitted to enter the cottage if they have cause to suspect a nuisance exists, and the case affords a good illustration of the Court's reluctance this term to interfere with a state's quest for information.

Legislative investigations

Two decisions of this term, dealing with the demand for information by representative bodies, limit sharply the curbs placed by the Court on legislative

investigations just two years earlier. They were among the most publicized actions of the session.

In *Barenblatt* v. *United States* (360 U. S. 109) the Court affirmed a conviction of contempt of Congress of a teacher who had refused to answer questions about his association with the Communist Party, put to him by a subcommittee of the House Un-American Activities Committee. The Court found that the history of House resolutions relating to the Committee defined its authority to investigate communist activities generally, that the pertinency of the questions to the legitimate purposes of the hearing was made clear to the witness, and that requiring testimony before a congressional committee concerning communist infiltration into the field of education does not violate the rights of a witness under the First Amendment.

Chief Justice Warren who had delivered the opinion of the Court two terms earlier in the controversial case of *Watkins* v. *United States* (354 U. S. 178, 1957) dissented, as did Justices Black, Douglas and Brennan, all of whom had also been in the majority in *Watkins*. The latter case, dealing with a strikingly similar set of facts, had reversed a contempt conviction. In the *Barenblatt* opinion Justice Harlan distinguished the *Watkins* case by saying:

> A principal contention in Watkins was that the refusals to answer were justified because the requirement [of the statute] that the questions asked be "pertinent to the question under inquiry" had not been satisfied. . . . This Court reversed the conviction solely on that ground, holding Watkins had not been adequately appraised of the Subcommittee's investigation or the pertinency thereto of the questions he refused to answer.

Justice Harlan concluded that in *Barenblatt* pertinency was made to appear "with undisputable clarity."

In upholding the constitutionality of the congressional inquiry the *Barenblatt* opinion says:

> Undeniably, the First Amendment in some circumstances protects an individual from being compelled to disclose his associational relationships. However, the protections of the First Amendment, unlike a proper claim of the privilege of self-incrimination under the Fifth Amendment, do not afford a witness the right to resist inquiry in all circumstances. Where the First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances. These principles were recognized in the *Watkins* case.

Perhaps Justice Harlan is literally correct in his statement of the holding in the *Watkins* case, but it obviously makes a crucial difference who applies the law to the facts and who balances the competing private and public interests. Thus, while *Watkins* is not overruled, the balance has swung sufficiently toward what is supposedly the public interest that some of the Court's critics in Congress will be satisfied.

Certainly there is now less meaning in the statement in the *Watkins* case: "We have no doubt that there is no congressional power to expose for the sake of exposure."

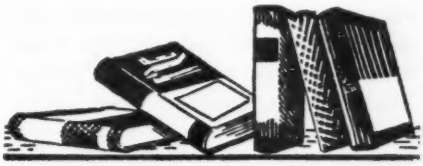
The other significant case marking the Court's new restraint in its scrutiny of legislative investigations is *Uphaus* v. *Wyman* (360 U. S. 72). Comment on this opinion has stressed its clarification of the Court's ruling of a previous term — one particularly criticized by the state chief justices — that the field

of sedition was for the federal government. In *Uphaus*, the Court made clear that this did not mean states could not protect themselves against sedition directed toward states, as opposed to sedition toward the national government. But the main issue in the case bears on the requirement of disclosure of information concerning one's associates. The witness had been adjudged guilty of civil contempt for failure to produce to the state attorney general, a one-man investigating committee for the legislature, the list of names of persons who attended the summer camp of World Fellowship, Inc. Justice Clark's opinion found that the attorney general had valid reason to believe the guests might be subversive persons within the meaning of the New Hampshire Act, since the witness had participated in "Communist front" activities and not less than nineteen speakers invited to talk at World Fellowship had either been members of the Communist Party or had connections or affiliations with it or organizations cited as subversive in the United States Attorney General's List.

Two years earlier the Court had held in *Sweezy* v. *New Hampshire* (354 U.S. 234, 1957) that the state attorney general, acting in the same capacity, could not compel a witness to give information concerning his lecture at a university or concerning his membership and activities in the Progressive Party. In *Uphaus*, Justice Clark states:

> the academic and political freedom discussed in *Sweezy* are not present here in the same degree, since World Fellowship is neither a university nor a political party.

The majority opinion in *Uphaus* v. *Wyman* adopted the test of Justice Frankfurter's concurring opinion in the *Sweezy* case. It was sufficiently at odds with the Court's opinion by Chief Justice Warren in the *Sweezy* case, that dissents were registered by Justice Warren, Brennan, Black and Douglas. Justice Brennan, with the concurrence of the other three, saw the investigation as being primarily for the sake of exposure and found this not to be a substantial interest of the state to balance against the individual's right of association and expression.



On the other hand, a witness resisting a legislative inquiry prevailed in *Scull* v. *Virginia* (359 U. S. 344). There a state legislative committee sought to compel information concerning the individual's activities in advocating compliance with the Supreme Court's historic opinion on school desegregation. A decision, marked by unanimity, recognized that there was doubt as to the state's interest to compel testimony touching so vitally on speech, press and association. However, the Court did not have to decide this issue, since it found that the purpose of the inquiry, as announced by the Chairman, was so unclear and conflicting that the witness "did not have an opportunity of understanding the basis for the questions or any justification on the part of the Committee for seeking the information he refused to give." The Court cited the *Watkins* case, which suggests that it may still stand for a vital principle.

Compulsion of testimony was objected to in *Anonymous* v. *Baker* (360 U. S. 287) because the witnesses were not permitted to take counsel into the room with them during the judge's inquiry into "ambulance chasing" by members of the bar. The recalcitrant witnesses were licensed private investigators. The judge conducting the inquiry indicated his readiness to permit them to leave the room and consult with counsel whenever they desired. They were convicted of contempt, and the Supreme Court sustained the conviction in a 5-4 decision which drew an analogy to grand jury hearings from which counsel is excluded. Justice Black's dissent, shared by Chief Justice Warren and Justices Brennan and Douglas, said:

> The naked, stark issue here is whether a judge . . . can consistently with due process compel persons to testify and perhaps lay the groundwork for their later convictions of crime, in secret chambers, where counsel for the state can be present but where counsel for the suspect cannot. In upholding such secret inquisitions the Court once again retreats from what I conceive to be the highest duty, that of maintaining unimpaired the rights and liberties guaranteed by the Fourteenth Amendment and the Bill of Rights.

Securing information

Congressional and administrative investigations, mentioned in the previous paragraphs, are the typical testing grounds for the modern dimensions of the problem of securing information from the individual. The explanation may be that big government requires delegation of its work to agency and committee. But that does not mean that other, perhaps more traditional, modes of legal scrutiny are free of challenge.

A state grand jury's need for information in an investigation of bribery of police officials was involved in *Mills* v. *Louisiana* (360 U. S. 230). A state statute provided the witnesses with full immunity from state prosecution for crimes uncovered by the questioning, but the witnesses refused to answer certain questions on the basis of the Fifth Amendment's federal privilege against self-incrimination. During the investigation the state prosecutor was collaborating with the United States district attorney and agents of the federal Internal Revenue Service in obtaining evidence. Thus, the witnesses claimed that state immunity would not preclude their prosecution by the federal government on evidence they would be forced by the state to give. The Supreme Court affirmed the state's holding the witnesses in contempt in a *per curiam* opinion. Justice Brennan's separate concurrence suggests a belief that the federal government might be foreclosed from the use of evidence obtained by federal-state collaboration. However, Chief Justice Warren and Justices Black and Douglas would not permit the state to coerce evidence against assertion of the federal privilege in view of the Court's precedent in *Feldman* v. *United States* (322 U. S. 487, 1944). The *Feldman* decision permitted the use in a federal court of evidence obtained under a state immunity statute. The majority decision in the *Mills* case will be attractive to those who are concerned about preserving states' prerogatives in the federal scheme, but the federal protection against self-incrimination is placed on a slightly more tenuous basis until the Court finds an opportunity to reverse the *Feldman* case.

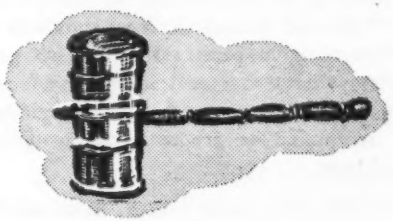
The leeway permitted to a federal narcotics agent in seeking evidence by search and seizure was another disputed question this term. In *Draper* v. *United States* (358 U. S. 307), the Court sustained a search and seizure without a warrant following an arrest based on an informer's statement that a person he described would arrive by train and would be carrying narcotics. The lone dissenter, Justice Douglas, stated:

> So far as I can ascertain the mere word of an informer, not bolstered by some evidence that a crime had been or was being committed, has never been approved by this Court as "reasonable grounds" for making an arrest without a warrant.

The Court, however, found corroborating evidence to give "probable cause" within the meaning of the Fourth Amendment in the fact that before the arrest the defendant appeared at the railroad station dressed and walking in the manner described by the informant. Even if the case does not represent a radical departure from prior decisions, it is an instance of comfort to the government in its quest for information on which to base its enforcement of the narcotics laws.

The Jencks problem

The converse of the government's interest in obtaining information for prosecution is the interest of a defendant in a criminal proceeding to information possessed by the government. In the 1957 case of *Jencks* v. *United States* (353 U. S. 657), the Supreme Court held a defendant in a federal criminal trial entitled to statements of a witness made to federal agents prior to trial. The requirement that the government produce the statement was limited to statements touching the subject matter as to which a witness had testified. The purpose of the requirement was to permit the defendant to check the consistency of the witness' statements for purpose of cross examination. Within three months after the *Jencks* case Congress had passed a statute carefully circumscribing the Court's decision. The act was passed at the urging of the attorney general who feared too great an incursion into the government files. However, the legislation left the *Jencks* decision substantially intact as a federal procedural rule; it merely limited any extension.



This term in *Palermo* v. *United States* (360 U. S. 343) the Court interpreted the "Jencks Act" with due deference for congressional intent and held unanimously that a federal revenue agent's 600 word summary of a conference with a witness was not a "statement" within the meaning of the Act and did not have to be produced to the defendant. Remembering the somewhat wild clamor over the original case, one can only conclude that some tempests are not even of teacup size. And the point is worth repeating that when Congress got down to the work of dealing with the defendant's need for certain information, it came to a conclusion very close to the Court's.

The Chatterley decision

One of the chronic anxieties of a democracy — the protection of freedom of expression — was treated in *Kingsley Pictures Corp.* v. *Regents* (360 U. S. 684), which tested the constitutionality of New York's law prohibiting the showing of the film, "Lady Chatterley's Lover." While unanimous in its reversal of the state ban, the Court spoke in five tongues in explaining the decision.

The state statute denies a license to any film that is "immoral" or "of such a character that its exhibition would tend to corrupt morals." In a recent effort to avoid challenge to the law on grounds of its vagueness, New York had defined the legal standards as meaning, in part, a film "which portrays acts of sexual immorality," and which "presents such acts as desirable, acceptable or proper patterns of behavior."

The film under attack, based on the D. H. Lawrence novel, depicts an adulterous relationship in a manner that seems to condone it, and employs several scenes of sexual intimacy designed, as the New York high court said, to set the scene "upon which the imagination was permitted to complete the picture of illicit sexual love." The original licensing power called for deletion of three scenes that it considered "immoral." On appeal to the Board of Regents, the whole film was condemned under the sections of the law quoted above. The first New York court to review the decision held that the legal standards were not specific enough. By a 4-3 vote, the Court of Appeals of New York upheld the Regents, however, judging the standards constitutional and concluding that the film was corruptive of public morals.

In a majority opinion written by Justice Stewart, the Supreme Court bypassed the question of statutory vagueness, and interpreted the New York court's opinion as requiring "the denial of a license to any motion picture which approvingly portrays an adulterous relationship, quite without reference to the manner of its portrayal." Since the First Amendment protects the advocacy of ideas, and since the film espouses the idea that adultery may be proper behavior, Justice Stewart reasoned that New York "has thus struck at the very heart of constitutionally protected liberty."

In concurring opinions three justices (Frankfurter, Harlan, Whittaker) pointed out the issue was not the stated one of abstract expression of opinion, but the more refined question of whether the corrupting and inciting effect of a particular portrayal removes it from the area of constitutionally protected speech. While they concluded that the particular film was not corruptive, they sought to preserve the power of the state to prevent — as it still may in the fields of pornography and obscenity — the corrosive effects achieved through incitement.

Justices Black and Douglas repeated their often-expressed belief that any previous restraint violates the freedoms of the First and Fourteenth Amendments.

Roughly, there are three possible attitudes toward such governmental restraints of expression. Two of these are polar: the one reading the first amendment as a carte blanche to every dissemination or utterance whatever the circumstances or consequences; the

other finding it protective only of those expressions which are familiar or commonly accepted (and these conclusions are notoriously geared to the intensity of one's own convictions). The latter interpretation has no support in tradition or law, though the hazard of equating constitutionality and the popular will is always present.

A third approach is built on the predisposition to protect the challenged expression (an assumption of its freedom), discounted by the possibility that its existence in certain forms and circumstances is incompatible with the essential values of society. This viewpoint, obviously, employs the tortuous discipline of the prudential judgment. By and large it has been the prevailing view.

While the majority opinion in the Lady Chatterley case made sounds evocative of the first attitude mentioned, the hinge of the holding is the Court's premise that New York prohibits the expression of an idea. As Justice Harlan wrote in concurrence,

> It is difficult to understand why the Court should strain to read those [New York] opinions as it has. Our usual course in constitutional adjudication is precisely the opposite.

Moralists may see some irony in the Court's reduction of art to ideology, when they have so often been accused of its relegation to morals. A major disappointment is the Court's fumbling of the opportunities to state the legal nexus between the nub of an idea and the method of its exploitation, and to analyze the peculiar form and effect of the cinematic art (as contrasted with, say, the comic book). On the other hand, the majority opinion probably proves too much, for the seller of pornography may logically ask why the First Amendment doesn't cover his version of the good life.

Racial question

Developments on the racial question during the past year reinforced the conclusion that the choice for the South is some integration or no public schools. The high point in this regard was reached in a special August term last year, when the Supreme Court in *Cooper* v. *Aaron* (358 U. S. 1) affirmed the Eighth Circuit Court of Appeal's refusal to permit a two and a half year suspension of integration in Little Rock. The Court, again unanimous, acknowledged that desegregation might proceed slowly in some areas because of special circumstances, but unequivocably rejected, as irrelevant, the presence of popular hostility as a ground for emasculating the Negro's constitutional rights.

Firmness on this point was balanced during the term with an eager willingness to assume the South's best intentions. Thus where a North Carolina literacy test for voters was challenged as unconstitutional, the Court pointed out in *Lassitar* v. *Northampton County Board of Elections* (360 U. S. 45) that an ability to read and write a section of the Constitution might reasonably be considered necessary to intelligent exercise of the franchise. But it noted that the application of the test to discriminate racially would be another matter. When Virginia's "massive resistance" legislation — unquestionably aimed at the NAACP — called for filings of information by corporations providing financial assistance in litigation, or advocating integration "or segregation," the Supreme Court reversed a Court of

Appeals which held them unconstitutional, and ordered the cases held in federal court until the state tribunals might first authoritatively state the statutes' meaning. This litigation occassioned the first split of the Court on the racial question, three justices maintaining that the conflict between the state's intention and the federal right was plain and apparent. (*Harrison* v. *NAACP*, 360 U. S. 167) While some commentators read these cases as a relaxation of the original desegregation policy, they seem in accord with the principle of minimizing the interference by the Court with state action that is still equivocal.

American economy

One of the most difficult areas of Supreme Court jurisprudence to place in perspective in any term is that concerned with economic and commercial interests. While the American economy is theoretically free, large segments of it —those that are charged with a high public interest—are regulated to varying degrees by administrative bodies. In such industries the Court is sensitive to the congressional intention that the regulation come from the specialized body, e.g., Securities Exchange Commission, National Labor Relations Board. The Supreme Court's traffic with such problems is thus a highly selective one, oriented toward the broad questions of administrative power (rather than the wisest use of that power), and the need for a harmonization of conflicting policies between agencies.

However, the basic charter for American business is the Sherman Anti-trust Act. In contrast with the court's restricted compass vis-a-vis the agency-regulated areas, this 1890 statute has, in Justice Hughes' words, "a generality and adaptability comparable to that found to be desirable in constitutional provisions." The concepts of restraint of trade and monopolization take their meaning primarily from the judiciary's interpretation of the purposes of the statute. In effect, this means that the competing philosophies of economic competition must justify themselves in the cases which reach the High Court.

In a highly significant case during the past term (*Klor's Inc.* v. *Broadway-Hale Stores*, 359 U. S. 207) the Justices had to decide whether the competition which the Sherman Act protects is measured by effect on the market itself, or by reference in some circumstances to the damage done to an individual seller. A small retailer in San Francisco had brought a private action for treble damages against one of his local competitors and a number of major appliance distributors, alleging a conspiracy to deprive him of access to the name goods. The defendants through affidavits before trial established the existence of numerous retailers in the same district of San Francisco who were selling the items which the plaintiff could not obtain. It appeared that consumers would have no trouble obtaining the goods from any one of several retail sources. The market competition was impaired not at all. But a unanimous court held that the complaint stated a cause of action as a restraint upon trade, pointing out that in its nature the alleged agreement had monopolistic tendencies. In addition to pumping new blood into the private suit as a means of enforcing the antitrust policy, the decision verifies a trend of judicial severity toward the permissible forms of competition, and may be an

augury for other practices (such as pricing and mergers) of the American business community.

The relationship of the anti-trust policy to the communications industry was established in a suit brought by the government against the Radio Corporation of America and its subsidiary National Broadcasting Company. The Federal Communications Commission, one of those agencies mentioned above which have been created to protect the public interest, had granted permission for an exchange of RCA's Cleveland television station for one in Philadelphia. The arrangement gave RCA the fourth largest market area in the country, to add to the first three which it already possessed. According to the allegations of the government's complaint, RCA had used its subsidiary network to coerce the Philadelphia owner (Westinghouse Broadcasting Company) by threats of loss of network affiliation in several cities. The Court found that the administrative scheme set up by Congress did not encompass a regulatory power to exempt the industry from the judicial application of the Sherman Act, and the case was remanded for further action. (*United States* v. *Radio Corp. of America,* 358 U. S. 334) This decision, while it has a limited applicability for other regulated industries since the agency statutes vary considerably in this regard, points up the very real problem of reconciling conflicting congressional purposes: one which prohibits restraints, the other (an administratively conceived one) which either condones or encourages them. In what is apparently a major problem of distinguishing between those industries which should, to some degree or other, be free of antitrust inhibitions and those which are vulnerable to the traditional economic view, Congress has thus far given imperfect guides, at best, to the courts.

Other cases

Among other cases touching important economic interests, the Court in a 5-4 decision held that insurance companies offering variable annuity contracts were subject to regulation under the Securities Exchange Commission. (*SEC* v. *Variable Annuity Life Ins. Co.,* 359 U. S. 65) In the teeth of a long legal history which leaves the regulation of insurance to the states, the majority concluded that the problems created by the variable annuity—which conditions the benefits of the plan to the success of an investment policy — call for the protections provided by the federal agency, protections which the state insurance commissioners are presently not equipped to offer. The case is a classic example of the constant struggle between old words ("insurance") and new circumstances; but whatever one's jurisprudential viewpoint on that conundrum, the decision of the Court does have in its favor the provision of an essential protection for the annuitant through the SEC's requirements of registration, and disclosure of investment policies and financial structure.

A short summary of the Court year cannot hope to cover all the decisions in the economic area. Attention should be called, in closing, to a series of cases which permit the states greater freedom in the taxation of interstate and foreign commerce. Again, important cases put interpretive glosses on the regulatory powers of the Federal Power Commission over the natural gas industry.

Why is it

Labor

LABOR RACKETEERING, that is, abuse of union office for private gain, has for generations been a recurring phenomenon in the American labor movement. The public has viewed it with mixed reactions. Those, and they were many, who were already persuaded that the typical labor leader is a lout and roughneck and that most of them are criminals, found in the occasional exposures of corrupt labor officers confirmation of their beliefs. Others, and perhaps the majority, without condoning the corruption, were inclined to regard dishonesty as no more endemic to labor organizations than to business generally and to assume that existing laws, if properly enforced, could deal as adequately with labor racketeering as with other instances of bribery, embezzlement, and extortion. Recent investigations[1], however, require some modification of this latter judgment. Opportunities in the labor movement for theft and extortion are more numerous than was realized and the number of people who have been exploiting them and the amount of systematic exploitation may be far greater than was thought. The most disturbing feature in this distressing situation is the fact that we do not know how extensive racketeering actually is.

Prior to World War II the labor racketeering which came to the public's attention had been largely confined to the building trades and the service and garment industries in large urban centers.[2] Sam Parks, who operated in New

1 Two Senate committees have recently been active in this area, the Douglas Committee on pension and welfare funds and the McClellan Committee on improper activities in the labor and management field. The proper title of the first is Subcommittee on Welfare and Pension Funds of the United States Senate Committee on Labor and Public Welfare. This committee began its investigations in May, 1954 under the chairmanship and direction of Senator Irving M. Ives, Republican of New York. In the 84th Congress the subcommittee was chaired by Senator Paul H. Douglas, Democrat of Illinois. Its final report was submitted on April 6, 1956. When the Permanent Investigations Subcommittee on Government Operations, headed by Senator John L. McClellan, focused attention on racketeering and diversion of union funds, the Senate at the end of January, 1957 established a bipartisan eight-member Select Committee on Improper Activities in the Labor or Management Field. The committee is currently continuing its investigations.

2 In speaking of labor racketeering I am restricting my comments to what Jack Barbash in his *Practice of Unionism* has called the "union-grown" or "home-grown" racketeer, that is, the official who has acquired union office through normal channels, but who has made dishonest use of the power which goes with his position. The professional gangster, who through bribery, violence, terrorism or by some other means has captured the machinery of a union, is another problem. The infestation of unions by professional gangsters dates largely from the Prohibition era. Repeal of the Prohibition Act destroyed the highly profitable illegal liquor traffic and forced the organized criminals to look for other sources of illicit income. The problems of the "home-grown" racketeer and of the gangster have this in common — conditions which encourage racketeering invite the attention of the gangster and facilitate his operations. At times the labor racketeer and the professional gangster are so closely associated that it is difficult to distinguish them.

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peculiarly American phenomenon?

Racketeering

LEO C. BROWN

York City from 1896 to 1903, may still serve as a classical example despite the fact that time has brought considerable sophistication in the technique of extortion. Before appearing in New York, Parks had worked as a lumberman, sailor, railroad brakeman and bridgeworker.[3] In New York he was a housesmith. Admirably equipped for the rough-and-tumble tactics which characterized the relations between the unions and the contractors in New York City at that period, he quickly won control of the disorganized Housesmiths' Union and then of the New York Board of Building Trades. For seven years he ruled the industry with an iron fist, brazenly selling strike protection to employers. He is said to have amassed a considerable fortune. Convicted of attempted extortion in 1903 and reelected to union office while in prison, he celebrated his release on a certificate of reasonable doubt by mounting a white horse and triumphantly leading the Labor Day parade down Fifth Avenue. But the triumph was short-lived. Convicted again of attempted extortion in 1904 he died in Sing Sing. Like many of his imitators, Parks took good care of the union workmen. Wages more than doubled between 1896 and 1903.

Parks has had a long line of more or less successful emulators. Martin (Skinny) Madden, head of the Steamfitters' Union in Chicago achieved considerable notoriety as a labor racketeer from 1896 to 1908; his control, however, never matched that which Parks had exercised in New York, largely because of the opposition of a well-organized progressive group within the Chicago labor movement. Joseph S. Fay, Vice President of the Operating Engineers, and James Bove, Vice President of the Laborers' Union, racketeered suc-

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3 Cf. John Hutchinson, *Corruption in American Trade Unions,* Institute Industrial Relations, Reprint No. 91, University of California, Berkeley 4, California. (Reprinted from *The Political Quarterly,* July-September 1957, Vol. 28, No. 3.) Other brief treatments of labor racketeering are:
David J. Saposs, *Labor Racketeering: Evolution and Solutions,* Reprint No. 72, Institute of Industrial Relations, University of Illinois, 704 S. Sixth St., Champaign, Ill. (Reprinted from *Social Research,* Autumn 1958, Vol. 25, No. 3.); Philip Taft, *Corruption and Racketeering in the Labor Movement,* New York State School of Industrial and Labor Relations, Cornell University, Ithaca, New York; "Labor Violence and Corruption," *Business Week,* Special Report August 31, 1957; Jack Barbash, *The Practice of Unionism,* Harper, New York, 1956, Chapter XIII, "Racketeering and Unions." Taft's brochure has an excellent brief analysis of the economic foundations of labor racketeering.

cessfully in New York and New Jersey during the decade which began in the middle thirties. Fay went to prison for extorting huge sums from contractors who were building a reservoir for the New York City water system. Bove was found guilty on 74 counts of grand larceny in addition to rifling the union's treasury of several hundred thousand dollars.[4] As late as 1955 Evan Dale, president of the Southern Illinois District of the Laborers' Union, was convicted of attempted extortion of more than $1 million from Ebasco Services, a private contractor engaged in the construction of an atomic energy plant for the United States Government.

Differences in pattern

These examples serve only to illustrate a problem which has haunted the union movement since the late 19th century. The racketeering disclosed through the more recent investigations appears to differ from this historical pattern in four respects:

1. The eminence of some of the labor officials involved.
2. The victims of the exploitation.
3. The increased sophistication of some of the methods used.
4. The extent of apparent collaboration between some highly placed union officials and reputed criminals.

In the past racketeering of the "union-grown" variety was generally an urban phenomenon and largely confined to local and district union officers. Higher international officers were rarely involved. The gangsters who infiltrated the union movement in the 1930s captured important international offices, it is true. George E. Browne, with the support of organized criminals, was elected president of the International Alliance of Theatrical and Stage Employees and served as their collaborator in extorting huge sums from theatre owners and motion picture producers. George Scalise, ousted president of the Building Service Employees' International Union, was sentenced in 1940 to 10 to 20 years for stealing union funds. But the cases of Browne and Scalise were examples of the infiltration of the unions by professional hoodlums. The recent investigations, however, have involved in charges of racketeering top union officials who had been regarded as genuine labor leaders. For example, the Senate Committee on Welfare and Pension Funds stated bluntly that the embezzlement of more than $900,000 of the Laundry Workers Welfare Funds was traced to Louis B. Saperstein, an insurance agent who was "obviously in collusion" with E. C. James, the Secretary-treasurer of the International Union.

The McClellan Committee opened its hearings in 1957 by investigating the Teamsters' Union, the largest organization in the American labor movement. Charges of corrupt practice quickly involved Dave Beck, at that time president of the International, and James R. Hoffa, his successor. Charges against

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[4] Barbash, *op. cit.*, p. 309.

Beck included diversion of large amounts of union funds for personal use. In addition to a long list of other charges Hoffa was accused of consorting with gangsters. Later in the hearings the presidents of two other international unions, James Cross, President of the Bakers' Union and William E. Maloney, President of the Operating Engineers, were accused of misuse of union funds.

While the union-grown racketeer may have taken a proprietary attitude towards his local union and used its funds as his own, his major exactions were usually from employers. Recent investigations, however, have produced little new evidence of large-scale extortion from employers. The sensational revelations dealt chiefly with raids on union treasuries and misappropriation of welfare funds.

Apparently the Hobbs Anti-Racketeering Act and the Taft-Hartley Act, by making extortion from employers a federal offense, have tended to discourage it. Growing union treasuries and trusteed welfare funds, however, have invited raiding without comparable risks. In dismissing indictment against Sol Cilento, who had been both a trustee of the social security fund of the Distillery Workers Union, and an international officer, and who had been charged with receiving "kickbacks" from an insurance agent handling placement of insurance for the union's members, Judge Jonas Goldstein said:

> Unfortunately, a trustee of a union welfare fund, except when he commits larceny, is not chargeable with a crime for violating his trust even though he simultaneously be an officer of the union.

The investigations have revealed some refinements in the technique of racketeering. Sales and brokerage agencies and other legitimate business forms are being increasingly used as cover devices. The Senate Committee on Welfare and Pension Plans said, "In most of the cases involving insured welfare plans where irregularities or abuses were discovered, a member of the insurance industry was involved." Contributions to all forms of pension and welfare funds in 1954 reached an estimated $6.8 billion. This is obviously big business. While a few unions, notably the United Mine Workers and the garment trade unions, have provided their own medical plans, most such plans are insured. Insurance companies typically obtain their contracts through general agents who in turn obtain business through solicitors and brokers.

This type of arrangement makes it possible for individuals who are in a position to name the insurer, to collect vast sums of money. The dishonest, but inventive trustees of a welfare program have the opportunity of setting up their own brokerage company or entering into agreements with a broker for lavish kickbacks. Two examples will illustrate the possibilities. The Laundry Workers International Union is not large as unions go, and in 1950 many of its members were not covered by insurance programs. Yet, according to the Report of the Senate Committee on Welfare and Pension Plans, Louis B. Saperstein, an insurance broker, received from April 1, 1950 to September 30, 1953 flat annual commissions of ten per cent for handling the placement of the union's welfare insurance, or a total of $262,500 on total premiums of $2,364,709.57[5]. In the same Report it was

[5] Final Report, p. 30.

stated that the union, while Saperstein was receiving all premiums payable to the insurance carrier, had paid out $3,-268,600 but that records indicate that the insurance company received only $2,356,200, and that, as stated earlier, the embezzlement of over $900,000 was traced to Saperstein "who was obviously in collusion" with the union's secretary-treasurer.[6]

The testimony before the McClellan Committee involving the Dorfman Insurance Agency is also enlightening. Paul Dorfman was the former president of a federal union of waste handlers in Chicago; his career as a union officer came to an abrupt end when the AFL-CIO removed him from office in 1957. Dorfman's wife, Rose, and their son, Allen, were active in an insurance brokerage firm. Two teamster organizations, the Central States Conference and the Michigan Conference, placed their insurance through the agency run by Allen Dorfman and his mother, Rose. Martin Uhlman, investigator for the McClellan Committee stated in testimony before that committee that, measured by benefits received, the Central States Conference in four years overpaid the Dorfman agency $1,800,000, and that the Michigan Conference's overpayment from 1956 to 1958 amounted to $500,-000. According to Robert Kennedy, counsel for the Committee, in return for Hoffa's influence in placing the welfare insurance with the agency headed by Dorfman's wife and son, Dorfman was to help build the Hoffa union empire.

Participation in a legitimate business is also a useful device in covering up exactions, contributions or favors from an employer. The business enterprise can range from an agency which is a mere cloak for the exaction to a legitimate business performing genuine services. The union business agent who is in a position to put pressure on an employer may set up in his own name or in the name of relatives an otherwise legitimate business organization or he may acquire an interest in an already established enterprise. The employer, a building contractor, for example, who is in need of a variety of services, may purchase his services from the firm in which the union business agent has an interest, either because of overt pressure or merely to cultivate the good will of the union official.

Recent testimony before the McClellan Committee illustrates how the arrangement might operate. A labor official of one of the building trades unions in New York City was induced to ally himself with a selling agency in the oil business. According to the arrangement he was to receive 50 per cent of the net profits on the sales which he promoted. He delivered 19 contracts, at least 16 of which were with construction companies. Testimony indicated that he reported commissions and expense money of $96,572 from May, 1950 to November, 1957 from his oil and gasoline operations.

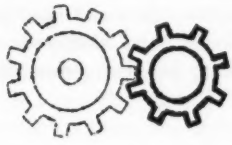
Ability or pressure?

The insidiousness of such an arrangement lies partly in the fact that it becomes difficult to determine whether the business success of a union officer results from his personal ability and effort or from the pressure which his union office

6 Final Report, p. 39.

enables him to put on his customers—in short, whether his business is wholly legitimate or merely a cover for extortion or collusion. The AFL-CIO code on conflicting interests would outlaw such arrangements.

Perhaps the most disquieting revelations are those which implicate officials of international unions with racketeering and those which charge high Teamster officials with consorting with known criminals. Racketeering on the part of top officials of any union invites questions about the possibility of internal reform where officials who should be promoting it are themselves involved in corruption. Charges that Hoffa, president of the Teamsters, is indebted to criminals for political support cause the gravest concern because of the strategic and powerful position that union occupies.



The prevalence and persistence of both occasional and organized corruption in the American labor movement needs explanation. Why is labor racketeering a peculiarly American phenomenon? Why is it not found among the English, Dutch, French, or German labor movements?

A favorite European explanation, echoed in the columns of the *Daily Worker*, finds the answer in the business unionism character of the American movement. The preoccupation of American unions with material gains is said to predispose union leaders to an uninhibited pursuit of self-enrichment. Whatever surface plausibility this explanation may have, it breaks down under the most cursory examination. The great railroad unions, the large unions in mass-production industries, the International Typographical Union, the Machinists, Boilermakers, and United Mine Workers, to mention but a few, yield to none in their efforts to improve the material well-being of their members, yet these unions are untouched by the scandal of racketeering. Moreover, some locals of an international will be shot through with corruption while others are models of careful and honest administration. Racketeering is best explained by examination of the economic and social situations in which it is discovered.

Racketeering can be divided into two broad categories: extortion from the employer and theft from the union and its members. Some racketeers, unhampered by any ideological inhibitions, seize any opportunity to victimize both union members and employers.

Systematic exploitation of the employer is possible where two conditions are found:

1. Ability of the union to inflict severe loss on an individual employer at comparatively small cost to its members.

2. Ability of the racketeer to use the union's power in an arbitrary fashion.

If the racketeer's freebooting were possible only at heavy expense to his union's members, their resistance would make regular and systematic exploitation impossible — except in those unusual situations where, because of inexperience or terrorism, they lacked the ability or the will to protest effectively.

These considerations suggest the economic reasons why racketeering of this type has so often been found in the building, trucking and service industries in urban areas and why it is unknown in large manufacturing and transportation establishments.

The building contractor, for example, is often in an extremely vulnerable position. Well-timed delays can cause losses which greatly outweigh the cost of even lavish bribes. In this industry where there is a strong tradition of craft-consciousness and where there is frequent change in building materials and design, the dishonest labor official has endless pretexts for contrived labor disputes, even to arranging a strike which will not occasion great loss to his union's members. A local craft union with 5,000 members can pay benefits to 20 strikers without serious inconvenience. But 20 striking craftsmen can shut down a building project. Often the union can send the strikers to other projects without any loss of work or income; often, too, the threat of a strike may suffice. Other pressure tactics are available. The builder may need 15 or 20 mechanics of the particular craft. Only the union, knowing what mechanics are available and where they are, can supply them. Possibilities for the dishonest exploitation of such a situation need no elaboration.

In the service trades the source of the racketeer's power is found in the very size of the service establishment and the high degree of competition which normally characterizes the industry. The typical dry cleaning establishment, for example, employs from 15 to 20 workmen; thus it has extremely limited resources for resisting the racketeer. If struck while the rest of the industry continues to operate, the enterprise must bear not only the immediate cost of the strike but the risk of losing customers to competitors. Employers, of course, are not wholly defenseless. Where they form associations for collective bargaining, and present a united front to the racketeer, they greatly reduce this power.

Competition, however, explains also why employer collusion often accompanies racketeering and why an employer may even take the initiative in cultivating the racketeer. A bribe which purchases labor peace for one employer may purchase labor difficulties for his competitor. Where this form of collusion is highly developed, the union may become the instrument for determining the amount and kind of competition which will exist and the conditions of entry into the industry. Good wages for the union members and high profits for the racketeer and sheltered employers may result; but the public, of course, will pay the bill.

High degree autonomy

In these industries — construction, trucking, and the service trades — labor officials often enjoy a high degree of autonomy, both with respect to international officers and to their local membership. This is explained in part by the nature of the product market of these industries and in part by the conditions of employment or the characteristics of their membership. The product market is a clearly-defined local area. A hotel which is needed in St. Louis must be built in St. Louis. Services which are performed in New York City must be sold

in New York City. While the wage rates paid elsewhere may serve the union in a particular locality as a standard of objective fairness in its negotiations with employers, they are not in any real sense competitive data which predetermine the results of negotiations. Consequently the local groups enjoy considerable independence in fixing labor standards, and the results which they are able to achieve are attributable to the cohesiveness of their own unions. In great measure the local unions must rely on their own resources and as a result their local officials enjoy a great deal of independence with respect to higher international officers.

These local officers likewise enjoy considerable autonomy in administering the local's business. Unless a business agent on a building project had power to make prompt decisions, the project could be completed before a dispute about working conditions were settled and the workers would have no recourse. Moreover, employment on construction is essentially casual. Workers move constantly from one project and one employer to another. Thus the administration of the union must be entrusted to full-time union personnel to a greater degree than is usual in other industries.

In the service trades, the administrative discretion of the local officials traces to somewhat different causes. Because the employing unit is small there is usually little social cohesiveness among the local's members which may include the employees of several employers. Moreover, the turnover of workmen in these industries is usually high and the workmen themselves relatively unskilled. A bundle breaker or mangle operator in a laundry is less prepared to review a business agent's stewardship than a machinist, for example, or a railroad clerk.

Conditions which favor victimization of workers while related to the structure of government within the union reflect conditions of employment and characteristics of the work force. Such victimization takes a variety of forms among the most common of which are theft of common funds, exactions of tribute and the collusive labor contract.

The direct and immediate exploitation of the work force in the form of monetary exactions or collusive and fictitious representation usually occurs where the work force is unskilled and casually employed or so otherwise handicapped that it cannot defend itself against the racketeer. The shape-up on the New York waterfront, where men are chosen for a day's work from a large group of applicants, lends itself to the exaction of kickbacks. This, however, is a partial and inadequate explanation of one facet of a much wider pattern of racketeering which involves union corruption and organized gangsterism and, by report at least, employer collusion. When the collusive contract is employed the work force may be slow in learning that it is being victimized.

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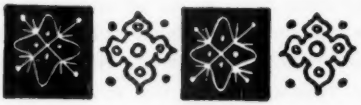
The spurious organizer may approach the employer with a proposal that he cooperate in the organization of his shop, at the same time promising that for a consideration the contract will bind the workers to less-favorable wages and standards than a vigorous union would negotiate. The labor contract, on its face, appears to be a genuinely-bargained result and, unless collusion with the employer can be proved, acts as a bar during its lifetime to the organizing efforts of legitimate unions. There is no reason, of course, to suppose that only the Puerto Rican workers in New York City have been the victims of such rank injustice but their handicaps—in the problems of language, lack of skill, unfamiliarity with legal resources — make this kind of enslavement possible.

The pillage of union funds is possible only where the union official is exempt from adequate supervision by members and higher officials. Some of the conditions, discussed earlier, which tend to give full-time officers autonomy in the administration of a local union's business are important here. Likewise important is the level of education of the work force involved and the use of terrorism which discourages the inquisitive member should not be wholly discounted. The most flagrant examples of raiding welfare funds which were reported by the Senate Committee on Welfare and Pension Funds involved two internationals, the Distillery Workers, a very small union, and the Laundry Workers, a union of about 75,000. Laundry employees are unskilled, low-paid workers; as a group they have no familiarity with the complexities of group insurance or competence in judging the relative values of different combinations of insurance benefits or the relationship between the benefits received and their cost. Inclined to place a spontaneous trust in their union officers, they are relatively easy victims for manipulation.



The Distillery Worker's Union has organized two groups of workers, those employed by distilleries and those employed in distribution. The locals in the manufacturing branch have not been accused of racketeering. In fact, the pressure for an internal cleanup of the union was brought by this branch of the organization. In the distributing branch of the industry we would expect considerable labor turnover and comparative inability among the union's membership to resist abuse of power by union officers. Moreover, the indictment of George Scalise and Anthony Carfano for bribery and conspiracy in connection with kickbacks from an agent who was handling insurance for distillery workers suggests that other considerations may also have been important. Carfano, also known as "Little Augie Pisano" was, according to the Senate Committee on Welfare and Pension Funds, a Prohibition era racketeer and associate of the late Al Capone. Capone is also credited with arranging for the elevation of Scalise to the vice-presidency in 1934 and, without benefit of an election, to the presidency of the Building Service Employees' Union in 1937[7]. He went to jail in 1941 for stealing $60,000 from the union.

[7] Hutchinson, *op. cit.*, p. 6.

Even in the case of the Teamsters it may be important to note that Dave Beck was not accused of diverting funds from the union's central treasury but from the West Coast affiliates and that the alleged mishandling of welfare funds through the Dorfman agency involved the Central States and the Michigan conferences, both territorial organizations of the Teamsters' Union. These observations suggest that systematic, large-scale misuse of union funds is possible only where the union structure has given local or regional leadership autonomy in union administration and where the members are unable or for some reason unanxious to inquire closely into the details of administration.

Problem in perspective

If the above analysis has any validity we may attempt to place the problem of labor racketeering in perspective. As has been noted, recent investigations have not brought to light much added information on exploitation of employers. What has been turned up follows closely the traditional pattern and seems to be generally confined to the building, trucking and service industries in metropolitan areas.

Where ownership by a labor leader of an enterprise which sells service to employers in the industry which his union has organized is used as a cover for racketeering, proof of criminal acts is difficult to establish. Proof is doubly difficult where the employer does business with the union officer as a reward for past or future favors. There are reasons for believing that this type of activity is of more frequent occurrence than has been shown by any investigation. Employers must share responsibility for its existence.

Theft and misappropriation of union funds has been more frequent than was suspected yet it appears that extensive defalcation has been confined to a small number of international unions. This judgment is at least equally valid for the administration of welfare funds. The report of the Committee on Welfare and Pension Plans is worth quoting:

> A discussion of abuses and problems might leave the impression with the readers that there is something wrong with every private welfare and pension plan. The subcommittee wishes emphatically to point out that this is not the case. Perhaps too little has been said of the many sound practices found in the great majority of these plans and of the conscientious and ingenious efforts on the part of industry, labor, insurance, and banking to bring benefits to scores of millions of employees at low cost.[8]

Moreover, of all forms of abuse which recent investigations have brought to light misappropriation of union funds is perhaps the most easily controlled.

The charges which aligned officers of the Teamsters' Union with gangsters are matters of grave concern. Nor did the succession before the McClellan Committee of individuals with criminal records, taking refuge in the Fifth Amendment, do much to allay suspicion that the charges may have been well founded. The Teamsters is a powerful union and occupies a strategic position in the economy. Criminal racketeering

[8] Welfare and Pension Plans Investigation, Final Report of the Committee on Labor and Public Welfare submitted by its Subcommittee on Welfare and Pension Funds, pursuant to S.Res. 225 (83rd Congress) and S.Res. 40 as extended by S.Res. 200 and S.Res. 232 (84th Congress), p. 17.

is serious enough when confined to the organized underworld but, if the hoodlum element should be placed in a position to command the economic power of Teamster affiliates, criminal racketeering will take on new dimensions.

Work of AFL-CIO

AFL-CIO has given convincing proofs of a genuine desire to eradicate racketeering from the labor movement. At its founding convention the newly-merged federation adopted resolutions aimed at racketeering and, well before the McClellan Committee began its investigations, had established by Constitution as one of its chief aims:

> To protect the labor movement from any and all corrupt influences and from the undermining efforts of communist agencies and all others who are opposed to the basic principles of our democracy and free and democratic unionism. (Article II, Section 10.)

At the same time it provided for an Ethical Practices Committee to investigate unions suspected of being corrupt or communistic and also provided for suspending during the interim between conventions unions found by investigation to be corrupt and for issuing directives to affiliates for the correction of unhealthy conditions. Before the merger, AF of L had expelled the International Longshoremen and both AF of L and CIO had appointed committees for study of the administration of welfare funds and had adopted resolutions aimed at safeguarding these monies. When investigations charged abuse in the Laundry Workers, Distillery Workers, Allied Industrial Workers, United Textile Workers, Bakers, and Teamsters Unions and scattered local unions, the Executive Council promptly ordered the unions involved to correct the abuses or face suspension and ultimate expulsion.[9]

As early as August 1956 AFL-CIO had issued a code of ethical practices dealing with the issuance of local union charters. Among other provisions this code prohibited issuance of a charter to persons known to traffic in union charters for illicit or improper purposes. This was followed in January 1957 by three codes of ethical practices dealing with health and welfare plan administration, racketeering, crooks, communists and fascists in unions, and financial interests of union officers which conflict with the performance of their duties as worker's representatives. On January 28, 1956, that is at the time the McClellan Committee was being organized, the Executive Council issued a statement on cooperation with public inquiries into corruption which said:

> It is the firm policy of the AFL-CIO to cooperate fully with all proper legislative committees, law enforcement agencies, and other public bodies seeking fairly and objectively to keep the labor movement or any other segment of our society free from any and all corrupt influences.

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[9] The Teamsters, Bakers, and Laundry Workers were expelled by the AFL-CIO, meeting in convention in December 1957. Autonomy was restored in May 1957 to the Allied Industrial Workers and a one year probation was cut short when the monitor, who had been supervising the affairs of the union under appointment by AFL-CIO, reported diligent adherence to the codes of ethical practices. In November 1958 Mr. Meany, President of AFL-CIO, reported to the Executive Council of the federation that the Operating Engineers' Union had made considerable progress and that the United Textile Workers and Distillery Workers had made completely satisfactory progress towards full compliance with the federation's ethical codes. The expulsion of the three unions mentioned above cost AFL-CIO approximately $1 million of its annual revenue through per capita tax.

We recognize that any person is entitled, in the exercise of his individual conscience, to the protection afforded by the Fifth Amendment and we reaffirm our conviction that this historical right must not be abridged. It is the policy of the AFL-CIO, however, that if a trade union official decides to invoke the Fifth Amendment for his personal protection and to avoid scrutiny by proper legislative committees, law enforcement agencies, or other public bodies into alleged corruption on his part, he has no right to continue to hold office in his union.[10]

This record is convincing evidence of a solid determination on the part of AFL-CIO to eliminate corruption from the labor movement.

The real question concerns not the federation's will but its ability to do the job. Where officers of an international union sincerely desire to end corruption within some of its affiliates, AFL-CIO and its Ethical Practices Committee can give effective assistance. But if the international itself is recalcitrant the federation's final sanction is expulsion, and the evidence seems to be clear that expulsion is an inadequate remedy. Expulsion does not seem to have weakened the Teamsters' Union nor to have effected marked change in its practices.

Moreover, AFL-CIO is not a crime detecting agency. Its Ethical Practices Committee in its investigations has relied in great part upon information developed by government bodies. The motives which compel a racketeer's victims to cooperate with him originally are also effective in discouraging their testimony against him. Unlike AFL-CIO, Senate committees have at their command the resources of government and, backed by the authority of Congress, they are armed with power of subpoena and can require testimony under threat of prosecution. Yet the progress of the McClellan Committee in establishing proof of crime has been painfully slow. The one thing that these investigations have convincingly shown is how difficult it is to bring daylight into the jungle where racketeers operate.

Labor, the administration, business groups, and legislators all agree that remedial legislation is necessary. A sharp conflict exists, however, about the kind of laws which are needed.

The last Congress passed and the President signed a measure which requires full disclosure of the administration of private welfare and pension plans. The administrator of these plans now must disclose the receipts and disbursements of the plans, a detailed statement of salaries, fees, and commissions charged to the plan, to whom paid, in what amount, and for what purpose. Embezzlement of welfare funds is perhaps the easiest of all forms of racketeering to eradicate and the new disclosure requirements should go far to eliminate this evil.

Whether the Congress will pass additional labor legislation during the current session is at this writing highly uncertain. On July 30 the House Committee on Education and Labor approved by the narrow margin of one

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10 "Codes of Ethical Practices in the Labor Movement," *Monthly Labor Review*, March 1957, p. 353.

vote H.R. 8342, which it had been considering for more than five weeks. The structure of the bill follows closely that of the Kennedy-Ervin bill (S. 1555) which the Senate passed in April of this year.

Each of these bills has seven titles and deals with the following major subjects:

1. Democratic procedures and basic rights of union members within labor organizations (Title I of both bills).

2. Reporting of financial and administrative practices by labor unions, and reporting by officials and employees of unions on matters which involve possible conflict of interest situations (Title II of both bills). Under this title, among other matters, union officials and nonclerical and noncustodial employees of unions would be required to disclose not only income from and transactions with business and employers in situations where their union position may have been a source of personal profit, but also where there might be conflicts between an individual's interest in a business and his duty to his union.

3. Reports by employers and labor relations consultants in respect to certain activities involving labor-management relations (Title II of both bills).

4. Criminal penalties for failure to file and for falsification of reports and records.

5. Procedures to compel compliance with reporting requirements.

6. Standards are set with respect to conditions under which international unions may take subordinate bodies under trusteeships; reports are required to be filed with the Secretary of Labor (Title III of both bills).

7. Provisions are made to insure fair elections of union officers at specified intervals (Title IV of both bills).

8. Fiduciary responsibilities are imposed upon union representatives, together with the requirement of bonding representatives and employees of unions and of trusts in which labor organizations are interested, who handle or control funds or property of such organizations (Title V of H.R. 8342 and Title VI and III of S. 1555).

9. Amendments to the National Labor Relations Act dealing, among other things, with organizational picketing and secondary boycotts.

Differences between bills

In many respects the provisions of both the Senate bill and House bill are completely or substantially identical. In other areas, however, major differences exist between the two bills. Where the bills disagree the House resolution is usually the weaker of the two. Some of its opponents have characterized it as a "watered down" version of the Kennedy bill.

The various concurring and dissenting views expressed by members of the House Committee on Education and

Labor in reporting the bill forecast sharp debate when the bill reaches the floor of the House.

In presenting the bill Representative Graham A. Barden, Chairman of the Committee, wrote:

> This bill was reported out by one vote. I voted to report the bill not because I approved it in toto, but to get a bill on the floor of the House.... The committee bill in my judgment fails in many serious respects to provide the remedies which are so urgently needed to correct major abuses which have been disclosed by the McClellan Committee investigation during the past three years.

Five members of the Committee[11] wrote:

> We believe that the bill reported to the House by its Committee on Education and Labor is a fair and effective instrument of labor-management reform ....
>
> This legislation was hammered on the Committee anvil after five weeks of intensive work and it is quite accurate to say that it in no way reflects any particular bias or point of view, but rather in the composite it represents a Committee consensus of the best solutions of the problems presented to us by the complex labor-management reform question — and by S. 1555....
>
> As a result of our work on this bill we are deeply convinced that it provides a path of reasonable compromise for reasonable men. It is our hope that it will win the favor of the House — and thus ensure that labor-management reform legislation will become law this year.

Eight[12] other members saw in the bill threats to legitimate union activities and members' rights:

> No one realistically can hope for a 'perfect bill' .... However, one can realistically hope for a bill to curb corruption and unsavory elements in both labor and management. But in so doing, one can also hope that 'reform' legislation will not be the facade behind which the unproclaimed, but real, objective is to hamstring the legitimate activities of unions in both their internal and external operations.
>
> Unfortunately there are those provisions in the bill that do go beyond reform legislation and are weighted against legitimate activities and constitutional rights of members of organized labor.

Nine other members expressed sharply dissenting views.[13]

> We, ... are convinced, beyond any doubt, that H.R. 8342 in its present form is woefully inadequate as a means of dealing with corruption and racketeering in the labor-management field.... The result of the Committee action is a bill which further weakens the already weak measure passed by the Senate (S. 1555). Instead of directing its provisions to the disease itself, the bill deals only timorously with some of the symptoms.
>
> The bill is inadequate for the following principal reasons: 1. Its watered-down bill of rights, along with the elimination of adequate enforcement provisions ... gives union officers a license to retaliate against members who assert their rights. 2. Its provision with respect to financial reporting by labor organizations exempt 70 per cent of the nation's unions from disclosing their operations, thereby providing a glaring loophole through which the so-called 'paper' unions and others ... can escape responsibility for reporting.[14] 3. It deals unrealistically with ..., the gap between the jurisdictions of the

[11] Representatives Carl Elliott, Edith Green, Frank Thompson, Jr., Stewart L. Udall, and James G. O'Hara.

[12] Adam Clayton Powell, Cleveland M. Bailey, Roy W. Wier, James Roosevelt, Herbert Zelenko, Elmer J. Holland, John H. Dent, Roman C. Pucinski.

[13] Carroll D. Kearns, Joe Holt, Stuyvesant Wainwright, Peter Frelinghuysen, Jr., William H. Ayres, Robert P. Griffin, John A. Lafore, Jr., Edgar W. Hiestand, Albert H. Quie.

[14] Unions with fewer than 200 members or with gross annual receipts of less than $20,000 are exempted from the reporting requirements unless the Secretary of Labor determines in the case of a particular organization that the exemption should be withdrawn.

Federal government and the States over labor-relations matters. . . . 4. It does not effectively eliminate the loopholes in the present ban against secondary boycotts. . . . 5. It does not deal effectively with abusive practices of some unions which engage in blackmail organizational picketing. . . .

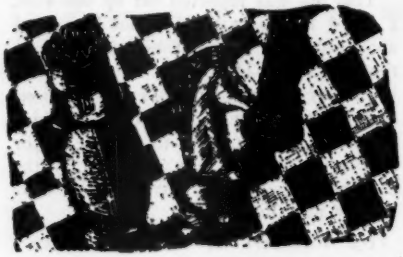
Two other members of the Committee[15] wrote:

The bill reported by the Committee falls far short of the mark and fails to come to grips realistically with the problems.

We believe that union members and the public demand, and have a right to expect, better and more effective legislation than the Committee bill. In our opinion, this subject is so serious and the need is so great that we cannot afford partisanship. In that spirit, we have joined in sponsorship of a bipartisan, or nonpartisan, substitute bill (H.R. 8400—H.R. 8401) which in our best judgment represents the kind of bill the Committee should have reported. . . . The substitute bill restores the 'teeth' in the Senate-passed bill which were extracted by the House Committee and it adds important and necessary provisions that deal directly with abuses left untouched by the Committee bill.

Division of opinion

Thus, no fewer than 21 of the 30 members of the House Committee have expressed dissatisfaction with their own bill, 12 because they consider that it deals ineffectively with labor abuses, nine because they think it hampers legitimate activities of labor unions. Ten Democrats supported the bill; ten voted against it. One of the Democrat Committeemen who voted to report the bill favorably stated publicly that he was opposed to it and intended to cosponsor a substitute. The six Republican members who voted to report the bill stated publicly that they voted solely to get the bill on the floor of the House where they would seek to alter it.



This difference of sentiment among the members of the House Committee may forecast a cold reception for the bill when it reaches the floor. If the Committee can be taken as a cross section of House membership it would appear that a majority favors more stringent legislation. However, should the House finally adopt a bill notably stronger than the Kennedy-Ervin bill, it might meet with rejection by the Senate. The next two weeks will determine what, if any, labor legislation will be passed during the current session of Congress.

Whether added legislation is forthcoming or not it will remain true that what is most needed to deal effectively with forced contributions from employers and the related problems of collusion between employers and union officials will be unremitting efforts of law-enforcing agencies at detection and punishment.

No amount of legislation will be effective without the sustained impetus of moral indignation which refuses to tolerate the exactions of racketeers.

[15]Representatives Phil M. Landrum and Robert P. Griffin.

The Urban Parish Under a Microscope

A. M. GREELEY

ALTHOUGH ITS CRITICS are growing more numerous, the parish seems destined to continue as the basic local unit of the Catholic Church for the foreseeable future. The canonical status and function of the parish has not changed appreciably for centuries, but the world in which it must operate is almost totally different from that of an hundred or even of fifty years ago. The rural parish of bygone days was much more adequately equipped to deal with the problems of a peasant culture than is the big city parish of today to face the obstacles to salvation offered by modern urbanism. Hence, the growing number of books attempting to analyze the operations of the modern parish on various levels to see how it works and whether it can hope to meet the challenges of modern society.

The faculty of the Canisianum Seminary at Innsbruck, Austria, have compiled a recent analysis as a symposium.[1] The talks were originally intended by the faculty for the student body and were edited by the Rector, Hugo Rahner, S.J., for publication. The treatment of the liturgy, the role of the laity, the missionary parish, the history of the parish and the sociology of the parish is certainly adequate enough; the chief emphasis, however, is on the historical and the theoretical rather than on the contemporary and the practical. One wonders why Newman Press did not have a group of Americans prepare a symposium on the same subject which would have avoided the difficulties of translation and put the problems of the parish in a context more immediately relevant to an American reader. However, one essay—that by Father Rahner, S.J., on the theology of the parish—makes the whole work of translation worth the effort and the whole volume worth the price.

Father Rahner sees the value of a parish primarily in its actuality in time and place:

> In contrast, the foundation of the parish community and its Eucharistic actualization lies solely in that principle which forms the very basis of the placeness of the Eucharist; that is, the placeness of corporeal, place-time man himself. In turn, this placeness of the human situation causes the greatest historical realization of man's supernatural salvation and life to be itself local . . . the placeness of the

[1] **THE PARISH:** ***From Theology to Practice.*** **Newman, Westminster, Md., 142 pp. $2.75**

Father Greeley is the author of the forthcoming The Church in the Suburbs *(Sheed and Ward).*

> Church and the Mass is a natural consequence of the nature of man who, wherever he exists, can only exist as one having a home. Hence his neighbors are those to whom the individual is first directed both in the natural and supernatural orders.

This connection between place and life and the relationship of the two to worship was obvious in peasant culture but is not nearly so evident in today's industrial, urban society. Such theological perspective must always furnish a backdrop for a discussion of the practical problems of the contemporary parish.

To an American reader Father Fichter's monumental work[2] is immensely satisfying. The reason is not merely Yankee prejudice but rather the fact that Father Fichter rigorously resists the temptation to theorize beyond his data or engage in guesswork. (Theory and guesswork have their place, of course, but not in a work which purports to be "sociological".) His study of a parish school as a social system is a graphic demonstration to those (such as Abbé Francois Houtart in his *Aspects Sociologiques du Catholicisme Américain)* worried about the declining national parish, of how Catholicism is adjusting to Americanization. Although Father Fichter is not attempting to defend anything, one cannot help but conclude from his book that in terms of both America and Catholicity the parochial school is doing rather well. It may be far from perfect, but it is still pretty good. In any case, *Parochial School* is a brilliant reply to James Hastings Nichols complaint that the Catholic school system is not open to scrutiny, criticism or correction.

St. Luke's is a thoroughly Americanized parish in a middlewestern city (obviously South Bend) with a congregation tending to be upper middle class (28 per cent, the largest of any group) and college-educated (34 per cent), but with a wide cross section of the various groups of the American Church. Its parish school is not only the center of formal education of most of its children but also a beehive of social and recreational activity. Its pastor and Mother Superior seem to be remarkably more permissive and intelligent than the stereotypes encountered in recent fiction. And its people, while having some criticisms of the school, are normally pretty well satisfied with what is being done for their children. One is almost tempted to say that just as a common nationality seemed to be the bond holding together the old national parish, so a common school seems to be the new bond holding together the new "American" parish.

There are two very pointed questions which American Catholics might well here ask themselves. First of all, we might wonder to what extent American Catholicism has adapted as a way of life and relatively efficient social service which Father Fichter describes. As Rahner observes, the parish is primarily a place of worship and sanctification. Social service as a parish func-

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[2] **PAROCHIAL SCHOOL:** ***A Sociological Study.*** **By Joseph H. Fichter. University of Notre Dame Press, 494 pp. $6**

tion can be justified only as a means of building the natural community on which the supernatural is to be founded. American parishes, whether national or "assimilated," seem to have done a much better job at building this natural community than the French parish studied by Father Pin in his *Pratique Religieuse et Classes Sociales*—and this despite the heroic efforts of the priests of St. Photin in Lyons, France. Nevertheless one wonders if in the United States there are not some dangers of the social service tail wagging the dog.

Parish social service

It has always been the task of the parish to teach catechism, but the furnishing of a complete system of schooling in everything from geography to dancing is a relatively new activity in the long history of the parish. No one can reasonably object to such an educational program or the other types of parish social service (scouting, sports, teen-age social activity, psychiatric counseling, etc.) if they contribute to the primary functions of the parish. It is understandable that American Protestantism, which as a mass organization, at least, lacks dogma and liturgy should be often reduced to a morale organization specializing in social activities and counseling, but it might be a dangerous sign if a good number of Catholics begin to think of their parishes as gigantic day nurseries and the priests and nuns as skilled but relatively inexpensive baby sitters.

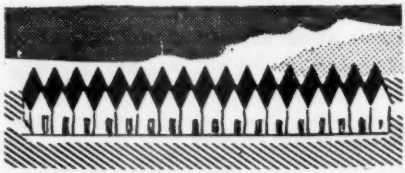
No one in his right mind would advocate the abandoning of the school system or multitudinous activities of the modern parish. But it is certainly realistic to demand that social services remain a means and not be converted into an end, that they help in worship and sanctification instead of replacing these latter essential functions. The assumption that social service automatically produces a better parish or better Christians is extremely dubious. Dances, clubs, bowling leagues, discussion groups, lectures, Catholic Action sections, library committees, pamphlet rack committees, athletic committees, picnics and the like should be able to produce a measurable improvement in the religious life of the parish. If they do not, two explanations are possible. The first (and the more often heard) is that it will take many years before the effects of all this activity are felt. The second (and the more disturbing) is that the activities are not the right ones or are not being used in the right way and that, in fact, many of them tend to be a waste of time. In any consideration of the American parish the possibility that the latter explanation might be partially true cannot be ruled out.

It can be argued that much of the social service functions of the parish could be turned over to the laity. Athletic and social programs, for example, could be administered entirely by lay committees. It is not impossible that in the future a group of parishes could even maintain a professional counseling service. (Unfortunately at present skilled lay therapists are as rare as clerical ones.) Considerable progress has been made in many parishes in transferring this kind of work to lay control. But lay participation is not the panacea that it often seems.

Rumors to the contrary nothwithstanding, the Catholic laity is not exactly clamoring at the door for an

opportunity to share in the responsibilities of running a big parish. It is to be feared, in fact, that the vast majority of the laity are not really interested in assuming any more responsibilities than they already have. Beyond the dedicated little inner core of active parishioners, there is a large and somnolent mass of parishioners who expect service from the parish but feel little inclination to contribute much more than their Sunday offering. To the argument that in many places their help is not wanted, one might reply that even where it is wanted it is not forthcoming. "I'll be glad to help but I don't want to take responsibility" are the words most frequently heard by many a parish priest. In our complacent, affluent society responsibility-taking is not a noticeably popular exercise. Despite published reports, the age of the laity has not yet dawned. However, a beginning has been made; if the CFM has done nothing else, it has at least instilled in its members a sense of responsibility to their parish. The pastor who is interested in recruiting lay help could make no more clever move than organizing a CFM group and let the natural processes of the organization do their best.

A second question might be asked about the "Americanized" parish as a basis for social action. There seems to be a danger that the parish can get so bogged down in the process of running its efficient and happy little (or not so little) community that it will become isolated from the larger problems of our civilization. In a steel mill parish the economic problems of the day are physically visible. In a racially changing neighborhood, the problems of the migrant groups are obvious. In a slum neighborhood, the implications of metropolitan development are not to be denied. In a university parish the major intellectual currents of the age cannot very well be ignored. In a parish near a SAC base international tensions have some importance. But the ordinary American parish (and especially the new suburban one) is so concerned with



its own immediate problems that it is little interested in the outer world of human activities and ideas. Hence it tends to live in a world of the unreal and the make-believe. The husbands and fathers of the parish may be beyond its influence precisely because they spend so little of their waking time within its boundaries; this fact leads them to think of the parish as a place for their wives and children dubiously useful for the important decisions of life. It will be a major task to discover an effective way of linking the modern parish with the larger economic and social questions of mid-twentieth century. One wonders if the hopes of the parish-centered, specialized movements of Catholic action to have an impact on the secular community beyond the neighborhood are not a trifle naive. (This is not to say these movements have no value for the individual participants.)

The American parish has not done too badly in holding the loyalties of many of its members. But for all its big plant and efficient operation, it does

not seem to have had the influence it might have either on the sanctification of its people or the transformation of the social order. Indeed the degree of religious practice often seems to be more closely correlated with the economic, social and ethnic background of its people than it is with the efforts of the parish. The admirable education and the faithful devotion of many parishioners does not seem to produce either the kind of personal goodness or the degree of dedication which one would hope for in the Catholic laity of mid-century America. The parish has done a good job, but it can do much better.

OUR SOUTHERN NEIGHBORS

Kevin Corrigan •

Mr. Corrigan is Chief of the Washington Bureau of Visión *magazine.*

EVENTS, such as the *Time* magazine riots in La Paz in March or the popular furor in Cuba following Batista's flight on New Year's Day or the demonstrations accompanying Vice President Nixon last year, bring Latin America to our attention momentarily. As a result, many Americans, especially American Catholics, feel somewhat uneasily that "something is happening" to the south of us but no one seems to know quite what.

The dilemma was dramatically brought home to this writer in a conversation some months ago with a Provincial of an important religious order which had been requested to establish a secondary school in a South American city. To indicate his perplexity, the Superior recounted that he had always assumed that Latin America was "Catholic" and thus he had no idea that there was a "crisis" there or that Catholics in the United States had any particular responsibilities in the area.

Of course, the truth is that, as materialism, neutralism and the "revolution of rising expectations"—which seem to be the 20th century horsemen of the Apocalypse—sweep through these countries as they are doing elsewhere in the world, Latin America finds itself in deep ferment. One of its great hopes, if chaos (followed by, quite probably, communist control) is to be avoided, is a truly charitable and fraternal attitude on the part of Americans, particularly American Catholics. For American Catholics can help creatively in attempts to meet the economic challenges of the time; at the same time their economic analyses are made within a framework that preserves the essential cultural and religious values which give Latin American life its final meaning. If we fail to interest ourselves in Latin America, materialists will dominate the scene—or they will be replaced by communists, who at least have the courage and imagination to mouth and even to act upon spiritual slogans: peace, brotherhood, and sacrifice.

If the American Catholic is to become interested in Latin America, he must, of course, take the trouble to

inform himself. The three books under review[1] will certainly serve a useful function. But, like much else, there is no royal road. These books must be supplemented by others.

The bibliography in *Latin America*, the voluminous work Professor Rippy prepared for the University of Michigan's "History of the Modern World" series under the general editorship of Allen Nevins and Howard M. Ehrmann, lists five major works on various Latin American subjects written by Professor Rippy and published between 1929 and 1947. In addition, there are references to articles in *Inter-American Economic Affairs*, *The American Historical Review*, and elsewhere. And yet, he seems to me to evidence a pervading feeling of distaste for both the subjects—the Latin Americans—as well as for most of the Americans who deal with them.

In *Latin America*, for example, he refers to the period immediately after the death of the Venezuelan despot Gomez in 1935 in these words:

> Gomez was succeeded by his long-time war minister, General Eleazar Lopez Contreras, likewise a native of Tachira; but the new chief executive was not a tyrant. He seems to have been a mild devotee of democracy . . . whose conscience may have been quickened by the threat of death from tuberculosis.

It is impossible to pass judgment on Lopez Contreras' degree of devotion to democracy or the venality of the motives that guided him, but it is a historical fact that he re-established his country in a firmly constitutional mode of government (which was not democratic at all, relying for one thing on indirect elections for the Senate and the Presidency, but which was quite republican) and it seems fair under these circumstances to point out that the "threat of death" can't really have been too imminent since Lopez Contreras was still a positive factor in his country's affairs last year following the overthrow of Perez Jimenez.

The University of Michigan book is an encyclopedic sweep of every aspect of Latin America from pre-Columbian times down to generalized statements about the outlook as Latin America enters "the second half of the [20th] century." The Church's role, however, is treated only incidentally, a detail to be mentioned in the order of magnitude of, say, the distribution of rainfall.

The notes and bibliography are useful and full but a series of statistical tables is already seriously out of date. Thus U. S. private investment in Latin America is not given for the years since 1950 (during which period it has almost doubled) and the latest trade figures are for 1951.

It should also be mentioned, however, that *Latin America* is a handsome sample of book production: good paper, good typography and good binding. Nor should the reader conclude that it is not a useful book. Lots of information, yes; really sympathetic and deep insights, no.

Much the same can be said of *Globe and Hemisphere*. Certainly the reader will come away from it with a wider

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[1] LATIN AMERICA: *A Modern History*. By J. Fred Rippy. University of Michigan Press, Ann Arbor, Mich. viii, 569, xx pp. $10.

GLOBE AND HEMISPHERE: *Latin America's Place in the Postwar Relations of the United States*. By J. Fred Rippy. Regnery (Foundation for Foreign Affairs Series, No. 1), Chicago, 276 pp. $6.

THE TRAGEDY OF BOLIVIA: *A People Crucified*. By Alberto Ostria Gutierrez. Devin-Adair, New York, 224 pp. $4.

factual knowledge. And while its subtitle suggests it is a study of the post-war years, much of the material is a detailed study of the 1920s and 1930s. One of the fourteen chapters, for example, is a detailed discussion entitled, "The Bond Selling Extravaganza of the 1920's and Its Aftermath."

One table lists 19 of the leading U. S. investment and commercial banking houses of that day and gives specific details of the amount of underwriting they engaged in for Latin American governments, their gross profits in these operations, and the exact "spread" they obtained (*i.e.*, the difference between what they paid for the issues and what they sold them for).

Lack of direction

Such information, and much of the other dust that has been swept under various carpets, is exposed to view by Professor Rippy. It is interesting and informative but somehow the main shape and direction of Latin American affairs seems to have been missed.

This weakness can best be suggested by a look at the index of *Latin America*. Thus, while there are entries for "Mendieta, Salvador, Central American critic" and "Magloire, Colonel Paul, Haitian strong man," there is none for Alberto Lleras Camargo. Alberto Lleras's service as President of Colombia in 1945 and 1946 is passed over in the compression made necessary by the tremendous geographical area and historical sweep of the book. His term as the first Secretary General of the Organization of American States is simply not mentioned. But more important than such external facts is the significance of a Latin American leader such as Alberto Lleras Camargo who, again today President of his country, could be seen on U. S. television screens in March of this year in an interview recorded in his office in Bogota.

So, while Professor Rippy records that the Colombian dictator Rojas Pinilla "was deposed in May, 1957," there is no mention of the much more meaningful fact that his deposition in an absolutely bloodless coup, supported by the great mass of the people and followed by a peaceful transition to fully constitutional government, was made possible largely through the high statesmanship of Alberto Lleras Camargo, who left his post at the Organization of American States to return to his country and ultimately succeeded in bringing about a coalition of his own Liberal Party with the main bloc of the Conservative Party.

The Tragedy of Bolivia is at the other end of the spectrum. On the opening page, the reader is taken along a dark street in La Paz at one-thirty in the morning with an armed band headed for the Telephone Building. Within a short time the reader has been on the inside of a lightning coup which thrust Major Gualberto Villarroel to power on the morning of December 20, 1943 and with him the leaders of the National Revolutionary Movement (MNR), which is still today the governing party of Bolivia.

There is nothing abstract about Dr. Ostria's book. It takes the reader deep into Bolivian politics from 1943 through to 1954, and since the same figures, such as Juan Lechin, Victor

Paz Estenssoro, and current president Hernan Siles Zuazo, still dominate the scene, the book has immense timeliness.

Dr. Ostria Gutierrez represents the conservative political opposition to the present government of Bolivia; his book, therefore, is essentially a brief against the MNR which currently rules his country. As such, it is both engrossing and compelling. He exposes brutality and high-handedness and, while he says that the present president, Siles Zuazo, is "a courageous leader and more humane" than others of the ruling MNR, he predicts that the MNR's "terrorist machine" will remain the controlling factor in the situation.

As the recent riots that swept La Paz demonstrate, Bolivia is still living in a tremendously precarious and inflammable political atmosphere. At the same time, the U. S. government has attempted to implement a "positive" policy. In practice this has meant grant aid (given nowhere else in Latin America except Guatemala) and sympathetic relations with the MNR.

As far as the MNR's "leftism" is concerned, one of the most fascinating and illuminating parts of Dr. Ostria's book is the section which traces the beginnings of the MNR in the secret societies inside the Army which grew up in the wake of the bitterness and national disillusion following the costly and futile Chaco War against Paraguay from 1932 to 1935. These secret societies, rather than being "leftist" (in our current loose use of words), were violently "rightist" in that they modeled themselves directly on German Fascism.

As for the final interpretation of Bolivian politics, this writer must confess mystification. The current situation, with its critical economic problems, necessitating living off a continuous dole from the U.S., is obviously unsatisfactory. However, the big question (and I don't know anyone who can answer it) is whether, with the fall of the present government, Bolivia might not be much, much worse.

To illustrate: in *Globe and Hemisphere*, Professor Rippy quotes Professor Robert Alexander (who is sympathetic to the MNR) as warning that:

> The fact is that the Indians and miners who support the Government are armed . . . [and], should there be an uprising in La Paz or some other city, armed militiamen might well descend upon the town. In that case there could easily be a race war between Indian peasants and the white and mestizo city people, leaving scars from which the country would not recover for decades.

Need for adequate appraisal

Read together, all three of these books cannot help but inform the reader more fully on the current state of Latin America in general and Bolivia in particular. More importantly, such knowledge is essential if we are to defend our nation's vital interests in what Professor Rippy calls "our inner fortress."

But after finishing them the reader will have to go on in order to gain an adequate grounding in this field. Yet the stark fact is that nowhere that I know of is there an adequate appraisal of the tremendous religious, political and economic currents that are flowing today in these nations, so near and yet so far. As is so often the case, the best understanding of what is happening in our world can be gained by turning to the solemn declarations of the See of Rome.

These words from Pius XII's 1944 Christmas Message offer an accurate commentary on current events in Latin America:

> The peoples have awakened as it were from a heavy sleep. They have taken a new attitude toward the State and toward those who govern—they ask questions, they criticize, and they distrust.
>
> Taught by bitter experience, they are more aggressive in opposing the concentration of power in dictatorships that cannot be censured or touched, and in calling for a system of government more in keeping with the dignity and liberty of the citizens. . . .
>
> In this psychological atmosphere, is it any wonder that the tendency toward democracy is capturing the peoples . . . ?

The crowds which wildly cheered Fidel Castro in Cuba and jubilantly celebrated the overthrow of Perez Jimenez and Rojas Pinilla in Venezuela and Colombia, are the same "uneasy multitudes stirred . . . to their innermost depths," which the late Holy Father described.

Their future—and ours—will be determined largely by whichever of the alternatives laid out in the same magistral message are chosen in Latin America: either a true democracy, "an organic and organizing unity of a real people," or a spurious democracy made up of masses controlled and exploited by a power clique in a privileged position.

It is important to remember that this latter alternative can be practiced by others besides the Soviets. This should be the main social lesson painfully learned by our century. It is the truth set out so prophetically by Max Picard when he wrote of *Hitler in Ourselves:* that is, the Hitler (call him Khrushchev or Peron) who lives "in the deep heart's core."

Books

SOCIAL PRINCIPLES AND ECONOMIC LIFE. By John F. Cronin, S.S., Ph.D. Bruce, Milwaukee, xxiii, 436 pp. $6.50

The author intended this book as a condensation and revision of his well-known *Catholic Social Principles,* published in 1950. The condensation preserved about half of the original, but the revision added more rewritten and new materials than had been eliminated, with the result that the present book is substantially a new work. Like its predecessor, this book offers an explanation of Catholic social principles against the background of American social and economic life.

The primary sources of Catholic principles used are the social writings and addresses of the popes from Leo XIII to John XXIII, but there is occasional reference to other documents, such as pastoral letters of members of the hierarchy. Excerpts from these sources are printed at the beginning of each chapter, and then are explained in the light of general ethical and moral principles. Where necessary to a fuller understanding of the source materials cited, background information is supplied. The author then proceeds to apply the principles to contemporary American life. On matters where the encyclicals are silent or non-conclusive and the opinions of moralists diverge, different points of view are fairly and tolerantly presented.

The book has three main divisions. In the first the social problem is outlined in its broad relation to man and his human nature. The positive social teachings of the

Church are then presented and judgment is passed on other contemporary philosophies. The second part treats more limited fields, such as capital, labor, wages, industrial relations, property, the family, and the state. In the third part are considered other important contemporary problems and institutions, such as international economic life, racial problems and tensions, and rural life. A concluding chapter relates social principles to social action.

The book is an excellent introductory text for college courses in social problems. It is also for the busy priest and layman a ready reference manual on papal social teachings and their sources. And for the serious student its chapter references and extensive bibliography are an excellent guide to further study. Clearly written, it is marked by a breadth of tolerance in the treatment of controversial questions which, while unusual, we have come to expect of Father Cronin.

LEO C. BROWN, S.J.

SOCIAL CLASS AND MENTAL ILLNESS. By August B. Hollingshead and Frederick C. Redlick. Wiley, New York, 442 pp. $7.50

Finding an adequate solution for the nation's mental health problems is one of the major challenges of our times. In an attempt to uncover some of the pertinent factors in the situation, a team of sociologists and psychiatrists spent ten years exploring the relationship between mental illness and social stratification in an urbanized community—much studied New Haven.

The study was designed to test the hypotheses that 1. the prevalence of treated mental disease is related significantly to an individual's position in the class structure; 2. the types of diagnosed psychiatric disorders are connected significantly with the class structure; and 3. the kind of psychiatric treatment administered by psychiatrists is associated with the patient's position in the class structure. Data providing empirical tests for these hypotheses were derived from a control group based on a five per cent sample of the general population and a psychiatric census recording all residents of the area under treatment between May 31 and December 1, 1950. Social class position was determined by employing Hollingshead's index of social position, based on area of residence, occupation and education. In terms of this index a fairly well-defined five-tier class structure was found to exist in the New Haven community.

The findings establish clearly that social class is the significant variable, inasmuch as each class exhibited definite types of mental illness, reacted to the presence of mental illness among its members in different ways, and received different treatment. Although we still know very little about the etiology of mental disorders and social class position, we can agree with the authors' conclusion that psychiatrists should acquire a broad knowledge of social classes and ethnic groups if they wish to be effective as therapists.

This brief review can only pay tribute to the wealth of information and insights offered throughout the study. All professional workers in the mental health field will find it of great value, while students interested in research will learn much from its careful statement of the problem and its varied methodological procedures.

JOHN L. THOMAS, S.J.

A CHANGING AMERICA: *At Work and Play.* By A. Wilbert Zelomek. Wiley, New York, 181 pp., $3.95

Although there is general agreement that Americans are on the move, many people are asking — on a different level — where they are going. With an unusual ability for organizing and presenting data, the author of this very readable book carefully analyses the major facets of rapidly changing mid-twentieth century America. There are enlightening chapters on what's happening to modern man and woman, on automation, leisure, culture, suburbia, and service. All readers will enjoy and profit by reading this optimistic, though relatively balanced appraisal of the complex society within which they work and play.

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